

WAYNE STATE UNIVERSITY

University Policy 2005-03

Policy-Making by the President

DISCRIMINATION AND HARASSMENT COMPLAINT PROCESS

1.0 Purpose

- 1.1 It is the purpose of this University Policy to set forth the respective roles and responsibilities of the Office of Equal Opportunity and the executive officers of the University in the investigation and resolution of complaints filed internally alleging violations of the University's policies against unlawful discrimination and harassment.
- 1.2 It is also the purpose of this University Policy to implement the University's complaint procedures as referenced in the WSU Board Statutes Annotated 2.28.01 – Non-Discrimination Policy and WSU Board Statutes 2.28.06 – Sexual Harassment Statute.

2.0 Delegation and Authority

- 2.1 The responsibility for receiving, investigating and recommending disposition of discrimination complaints is delegated to the Director of the Office of Equal Opportunity (hereafter "the Director"). Persons alleging violation of the University's non-discrimination and harassment policies may file a complaint with the Office of Equal Opportunity.
- 2.2 The Equal Opportunity Office shall perform an initial assessment of all complaints to determine whether the allegations fall within the scope and jurisdiction of the non-discrimination and harassment policies.
- 2.3 After the initial assessment has been completed, and if the Equal Opportunity Office determines that the allegations fall within the scope of the non-discrimination or harassment policies, the Equal Opportunity Office will so advise the Complainant and the Respondent. If the Equal Opportunity Office determines that the allegations do not fall within the scope of the non-discrimination or harassment policies, the Equal

Opportunity Office will refer the Complainant to the proper forum to address his or her concerns.

3.0 Inquiry

- 3.1 If the Equal Opportunity Office determines that the allegations fall within the non-discrimination or harassment policies, the Equal Opportunity Office will conduct an inquiry.
- 3.2 In an inquiry, the Equal Opportunity Office will review the concerns raised and obtain information from appropriate University personnel or other persons. If the Equal Opportunity Office concludes that the initial inquiry has merit and should be resolved, it will suggest steps to resolve the concerns of all of the relevant parties.
- 3.3 If the Complainant or the Respondent do not concur with the proposed resolution, or if the Equal Opportunity Office determines that the allegations, if sustained, would be reasonably likely to result in the need for prompt remedial measures potentially involving disciplinary action, a formal complaint will be initiated.

4.0 Formal Investigation

- 4.1 A formal complaint is a written expression alleging violation of the University's policies on Non-Discrimination or Sexual Harassment. A formal complaint must be signed and dated by the complaining individual(s) ('the complainant'). The filing of a formal complaint requires a full investigation by the Equal Opportunity Office and the development of findings of fact and formal recommendations regarding disposition of the complaint.
- 4.2 The Equal Opportunity Office will provide the person or unit who is accused of violation of the university policies prohibiting discrimination / harassment ("the respondent") a copy of the formal complaint and provide the respondent with an opportunity to provide a written response within the time limits set by the Equal Opportunity Office.
- 4.3 The Director of the Equal Opportunity Office will, within ten working days of the filing of the formal complaint, notify the vice president or dean (hereafter "executive officer") in the division or unit in which the complaint originated, that a formal complaint has been filed. The notification should include the name of the complainant and the nature of the complaint. The Equal Opportunity Office will also maintain regular communication with the complainant and the respondent to advise them of the status of the investigation and disposition of the complaint.

- 4.4 The Director of the Equal Opportunity Office will be responsible for preparing a Notice of Disposition for each formal complaint. The Notice of Disposition will include: (a) a summary of complaint, (b) a statement of findings, (c) conclusion and (d) recommendations, if any. The report will be signed and dated by the Director.
- 4.5 The Notice of Disposition shall be completed no more than 90 calendar days after the date of filing the formal complaint. If the Notice of Disposition cannot be completed within 90 calendar days, the Director of the Equal Opportunity Office must notify the parties of the approximate date on which the Notice of Disposition will be issued.
- 4.6 The Notice of Disposition either will include a finding that there is insufficient cause to conclude that the Respondent engaged in conduct in violation of the university's policies on discrimination or harassment, or that there is probable cause that the respondent engaged in such conduct.
- 4.7 If the Notice of Disposition includes a finding of probable cause and calls for prompt remedial action, the Director of the Equal Opportunity Office shall notify the executive officer responsible for implementing the prompt remedial measures of the finding of probable cause prior to the Notice of Disposition being issued in final form. In cases involving represented employees, the Director of Equal Opportunity should consult with the Director of Labor Relations to ensure that the remedial measure is not constrained by an existing collective bargaining agreement. The executive officer responsible for implementing the prompt remedial action must respond to the Director of the Equal Opportunity Office within 10 working days as to concurrence or non-concurrence with the recommendations.
 - 4.7.1 If the executive officer concurs, he/she shall include a proposed time schedule for implementing the prompt remedial measures.
 - 4.7.2 If the executive officer does not concur, he/she shall explain the reasons for non-concurrence with the recommendation.
 - 4.7.3 If the executive officer concurs with the finding but takes issue with the recommended remedial action, the executive officer shall offer alternative remedial actions along with an implementation time schedule.

5.0 Appeals

- 5.1 If the complainant, respondent or executive officer is dissatisfied with the Notice of Disposition, he/she may file an appeal to the Executive Vice President within 14 days after the final Notice of Disposition has been issued.
- 5.2 The appeal may only be filed on the basis that:
 - 5.2.1 The investigation failed to include evidence that was available and should have been taken into consideration prior to the final disposition.
 - 5.2.2 The investigation failed to comply with the process and procedures that must be followed during the investigation process.
 - 5.2.3 Taking the evidence in the light most favorable to the prevailing party, the outcome is not consistent with the non-discrimination or harassment policy.
 - 5.2.4 The proposed remedial measure is inconsistent with other University policy or collective bargaining agreements.
- 5.3 The Executive Vice President will independently review the appeal. The Executive Vice President may receive additional information if at his or her discretion such information is necessary to the review.
- 5.4 The Executive Vice President's decision on the recommendation of the Equal Opportunity Office will be final.
- 5.5 The individual parties retain the right to appeal discipline, if any, under existing collective bargaining agreements or other applicable University disciplinary policies.

6.0 Other Provisions

- 6.1 Retaliation against any person for filing a complaint or for participating in an inquiry or an investigation of a complaint is strictly prohibited. Such retaliation constitutes a separate basis for complaint under this University Policy.
- 6.2 If a recurring pattern of sustained complaints is identified in a unit of the university that falls under this policy, the Director of the Equal Opportunity Office will consult with the executive officer responsible for that unit.

- 6.3 The Director will provide recommendations and assistance to the executive officer, who will be expected to take prompt remedial measures necessary to correct these breaches of university policy. The Director shall provide the President with a copy of any report to an executive officer made under this subsection.
- 6.4 The Equal Opportunity Office shall maintain a record of all inquiries and formal complaints filed for a period of not more than (3) three-years.
- 6.5 The Equal Opportunity Office is the primary contact and liaison for the University for inquiries, formal complaints, and charges from the Michigan Department of Civil Rights, the Equal Employment Opportunities Commission, the Office for Civil Rights (Department of Education) and the Office for Federal Contracts and Compliance Programs (OFCCP).
- 6.6 The Equal Opportunity Office may consult with the Office of the General Counsel during any stage of the discrimination and harassment complaint process.
- 6.7 The Executive Vice President may designate an entity other than the Equal Opportunity Office to perform any function delegated to the Equal Opportunity Office when circumstances are such that the Director or any employee of the Equal Opportunity Office may be considered a witness in a charge, or under other appropriate circumstances.

7.0 Duration

- 7.1 This University Policy may be revoked or amended at any time, at the discretion of the President without notice.

8.0 Effective Date

- 8.1 This executive order is effective upon the date of issuance.
- 8.2 Executive Order 84-1 is hereby revoked, effective immediately.

Approved by : Irvin D. Reid, President
June 13, 2005