

Policies of the University of North Texas	Chapter 16
16.006 Information and Procedural Guidelines for Pursuing and Resolving a Complaint of Discrimination, Including Sexual Harassment	Equity & Diversity

Policy Statement. The purpose of this policy is to provide the UNT community (faculty, staff, administrators, and students) and members of the public visiting UNT a work place and educational environment free of sexual harassment and intimidation.

It is the policy of the University of North Texas that acts of sexual harassment, as defined herein, toward guests of and visitors to the campus or any member of the University community including faculty, staff, students and candidates for positions at the University (regardless of the individual's gender) will not be tolerated. All members of the administration, faculty, staff and students will be subject to disciplinary action for violation of this policy. Members of the public doing business with the University who violate this policy may be subject to sanctions.

Application of Policy. All University

Definitions. None

Procedures and Responsibilities.

I. Purpose: To outline the steps necessary to file a complaint of discrimination against a member of the University community, a visitor, or members of the public doing business with the University as well as the subsequent investigation procedures.

II. Information for Pursuing a Complaint:

A. Who may file a complaint? Anyone who believes that he or she was the victim of discrimination in violation of University policies (16.004 and 16.005) may seek informal advice and/or file a complaint. All formal complaints will be referred to the Office of Equal Opportunity.

A third party who is aware of a suspected violation of these policies is obligated to notify the Office of Equal Opportunity or other appropriate University official.

Faculty and staff should report suspected violations of the nondiscrimination policy (16.004) or the sexual harassment policy (16.005) to their immediate supervisor, the administrative director or chair of their department, the Human Resources Department or the Office of Equal Opportunity.

Students should report violations of the nondiscrimination policy (16.004) or the sexual harassment policy (16.005) to the administrative director or chair of the department in which the alleged incident occurred, to the Dean of Students or the Office of Equal Opportunity.

Failure to report allegations of sexual harassment by those vested with responsibility to do so under the sexual harassment policy, 16.005 sec. 5, b., is a violation of that policy.

- B. Time period for filing internal complaints: Prompt reporting of a complaint is strongly encouraged, as it allows for rapid response to and resolution of objectionable behavior. Except as provided in the following paragraphs, complaints should be filed within 90 days after the alleged objectionable behavior occurred. The deadlines in this policy apply to the filing of internal complaints only. Complaints filed after the deadlines established by this policy will be reviewed to determine whether an investigation is warranted.
 - 1. In instances involving a student complaint against a faculty member charging harassing behavior that occurred in the context of a subordinate-supervisory academic relationship (e.g., teaching, advising, thesis or dissertation supervision, or coaching), the time period may be extended until 90 days after the student is no longer under the faculty member's academic supervision, or two (2) years from the date the alleged harassing behavior occurred, whichever is earlier.
 - 2. In instances involving a tenure-track faculty member's complaint against a faculty member(s) within his/her college, the time period may be extended until 90 days after the tenure decision is made or two (2) years from the date the alleged harassing behavior occurred, whichever is earlier.
 - 3. In instances involving a staff member's or administrator's complaint against a supervisor(s) charging harassing behavior that occurred in the context of a subordinate-supervisory relationship, the time period may be extended until 90 days after the staff member or administrator is no longer under the supervision of the alleged offender, or two (2) years from the date the alleged harassing behavior occurred, whichever is earlier.
- C. Notification: Having been made aware of a possible violation of University policy, the Office of Equal Opportunity must contact the alleged victim and when appropriate review the situation for possible action. Requirements for notification of the alleged offender are included in sections 3 and 4 of this policy.
- D. Admissibility of records and testimony:
 - 1. The original allegation and any relevant evidence gathered outside the mediation process, whether mediated or not, may be used as evidence in subsequent investigations and hearings relating to charges of discrimination and/or sexual harassment that occur within 10 years of the date the original allegation was made. Except as provided in section 7, of policy 05.044, Voluntary Alternative Dispute Resolution System, mediated agreements may not be used as evidence in subsequent proceedings.

2. After 10 years from the resolution of a formal complaint, only the findings that discrimination occurred (including sexual harassment) or prior mediation agreements will be admissible in any future proceedings.
 3. Records concerning other previous investigation(s) not related to the subject matter of the complaint(s) in the current case are not admissible.
 4. A Voluntary Dispute Resolution mediation agreement is not admissible as evidence except as provided in policy 05.044 Voluntary Alternative Dispute Resolution System, sec. 7 Agreements.
 5. Testimony about prior accusations or similar discriminatory or harassing behavior will only be admissible if it is relevant to the current case.
- E. Confidentiality: All individuals who are involved in the complaint reporting, mediation and/or investigation process are obligated to maintain confidentiality of the proceedings in accordance with law. All who take part in any of the procedures under this policy will be expected not to reveal any information that they learn in the course of these proceedings unless disclosure is required by law. The University will take reasonable measures to ensure the confidentiality of the testimony and records produced in the procedures of the policy. Notwithstanding these measures, the University cannot and does not guarantee that parties and witnesses will maintain confidentiality.

Caution: Confidentiality does not mean that the details of the complaint will be withheld from the charged party, or that the University is constrained from divulging the proceedings in appropriate circumstances. For example, the University may publicly divulge details of the outcome if one of the parties discloses selective or self-serving portions of the proceedings, or when a lawsuit emerges where the complaining or charged party contests the findings or results of the University's investigation or if the activities are criminal in nature.

- F. Retaliation: Federal and state law and university policy prohibit any form of retaliation against a person who files a discrimination complaint, including a charge of sexual harassment. It is the responsibility of the investigating office to state clearly to the charged party that any form of retaliation against a person for having filed a complaint is expressly prohibited and may result in serious disciplinary sanctions.

This protection from retaliation similarly applies to persons who participate as witnesses in discrimination investigations or adjudicatory proceedings.

A claim of retaliation may result in a subsequent investigation of the allegation by the Office of Equal Opportunity.

- G. Time period for investigation of a complaint: Investigation of the complaint will normally begin within 10 working days from when it is received. The investigation shall normally be conducted within 45 working days thereafter and the letter of

finding will be forwarded to the appropriate supervisor(s) at the end of the investigation.

Note: Case complexity will vary and the termination of the investigation will depend on case circumstances; however, the investigation will commence within the designated time and will conclude under normal circumstances within 45 working days. It is incumbent upon the investigating official to document a reasonable justification for extending an investigation beyond 45 working days.

III. Procedures For Pursuing and Resolving a Complaint of Discrimination When the Alleged Offender is a Student:

These procedures offer opportunities to resolve disputes at the lowest possible administrative level. Throughout this section the term “department Chair” is used for the senior administrative officer within the immediate unit. If the alleged student offender was acting in the capacity of an employee of the University see either #4 - Procedures for Pursuing and Resolving a Complaint of Discrimination When the Alleged Offender is a Staff Member or #5 - Procedures for Pursuing and Resolving a Complaint of Discrimination When the Alleged Offender is a Faculty Member of this policy.

The initiating of a complaint will follow one of the alternatives listed below. However, at anytime the complaint may be taken directly to the Office of Equal Opportunity.

A. Alleged Offender is a Student:

1. Stage One: Alternatives to an Investigation. The alleged victim may seek information and informal advice from anyone with whom he/she feels comfortable including, but not limited to, faculty, administrators, and/or staff. The seeking of advice will not constitute filing of a formal complaint. However the person receiving the information may be required to report the incident in accordance with state or federal law or university policy.

The alleged victim (and/or alleged offender) may seek mediation through the Voluntary Alternative Dispute Resolution 05.044.

2. Stage Two: Investigation of a Formal Complaint. The alleged victim may file a formal complaint with the Office of Student Rights and Responsibilities. (See the Student Code of Conduct)

The Office of Student Rights and Responsibilities may investigate the student’s claim himself/herself, assemble a group of individuals to review the complaint, or seek other avenues of advice.

The Office of Student Rights and Responsibilities determines if the complaint has sufficient grounds to notify the alleged offender.

If the Office of Student Rights and Responsibilities determines the investigation will go forward, the Office of Equal Opportunity (if not previously notified) is notified.

The Office of Student Rights and Responsibilities determines when to notify the alleged offender and subsequently keeps him/her informed.

The gathering of information from additional witnesses begins.

The alleged victim and alleged offender (after receiving notification) are kept abreast of the stage of the investigation.

The alleged offender is given an opportunity to respond both orally and in writing to the allegations and evidence against the alleged offender prior to any determination of culpability.

The alleged offender's response to the allegations and evidence must be made to the Office of Student Rights and Responsibilities within ten (10) working days of notification from the Office of Student Rights and Responsibilities.

IV. Procedures For Pursuing and Resolving a Complaint of Discrimination When the Alleged Offender is a University Employee:

These procedures offer opportunities to resolve disputes at the lowest possible administrative level. Throughout this section the term "department Chair" is used for the senior administrative officer within the immediate unit. The term "staff member" is used for full-time and part-time employees (other than faculty and administrators) of the University. The term "staff member" includes student employees acting in their capacity as an employee of the University. If a student is the alleged victim or offender, the Office of Student Rights and Responsibilities will be notified.

The initiating of a complaint will follow one of the alternatives listed below. However, at anytime the complaint may be taken directly to the Office of Equal Opportunity.

A. Alleged Offender is a Staff Member:

1. Stage One: Alternatives to an Investigation. The alleged victim may seek information and informal advice from anyone with whom he/she feels comfortable including, but not limited to, faculty, administrators, and/or staff. The seeking of advice will not constitute filing of a formal complaint. However the person receiving the information may be required to report the incident in accordance with state or federal law or university policy.

The alleged victim (and/or alleged offender) may also seek mediation in accordance with the procedures found in the Voluntary Alternative Dispute Resolution Policy no. 05.044.

2. Stage Two: Investigation of a Formal Complaint (See Section G. Time period for investigation of a complaint).

The alleged victim may file a formal complaint with the Office of Equal Opportunity (OEO).

OEO meets first with the alleged victim to determine if a formal investigation is needed or if the Alternative Dispute Resolution process (05.044) or another solution to the complaint is available.

Should the OEO determine that there are insufficient grounds to pursue the complaint, OEO will notify the alleged offender of the nature of the complaint and the decision not to pursue the complaint. Neither the alleged victim's name or information that would reveal the alleged victim's name will be included, except as required by law.

Prior to involving third parties as witnesses, OEO notifies the alleged offender and the immediate supervisor and department head of the complaint and determines if the Alternative Dispute Resolution process (05.044) or another solution to the complaint is available.

Any decision not to immediately notify the alleged offender must be made by OEO in consultation with Human Resources and justified in writing. The justification is included with the documentation provided to the alleged offender following the gathering of information.

OEO consults with the Office of the Vice Chancellor and General Counsel to determine if a formal investigation is appropriate. If a formal investigation is warranted, the gathering of information from additional witnesses begins by the OEO.

The alleged victim and alleged offender (after receiving notification) are kept abreast of the stage of the investigation.

The alleged offender is given an opportunity to respond both orally and in writing to the allegations and evidence against the alleged offender prior to any determination of culpability.

The alleged offender's response to allegations and evidence must be made to the OEO within ten (10) working days of notification by the OEO.

OEO prepares a written report setting out the findings of the investigation.

- B. Alleged Offender is a Faculty Member: *Note: The term "faculty member" in this section of the policy includes persons with faculty appointments, those persons acting in the capacity of teachers or academic researchers, as well as those students employed as teaching fellows or teaching assistants.*

If the alleged victim is a faculty member and alleges that the employment discrimination occurred through a decision of the Personnel Affairs Committee, the Promotion and Tenure Committee, or another constituted university committee, the faculty member may pursue a complaint through the procedures in the department and/or college charter, the Faculty Handbook, or through the Office of Equal Opportunity.

If the alleged offender is a Chair or Director, the OEO will notify and consult with the Dean of the college or school in Stage Two: Formal Investigation.

1. Stage One: Alternatives to an Investigation. The alleged victim may seek information and informal advice from anyone with whom he/she feels comfortable including, but not limited to, faculty, administrators, and/or staff. The seeking of advice will not constitute filing of a formal complaint. However the person receiving the information may be required to report the incident in accordance with state or federal law or university policy.

The alleged victim (and/or alleged offender) may also seek mediation in accordance with the procedures found in the Voluntary Alternative Dispute Resolution Policy no. 05.044.

2. Stage Two: Investigation of a Formal Complaint (See Section G. Time period for investigation of a complaint)

The alleged victim may file a formal complaint with the Office of Equal Opportunity (OEO).

OEO meets first with the alleged victim to determine if a formal investigation is needed or if the Alternative Dispute Resolution process (05.044) or another solution to the complaint is available.

Should the OEO determine that there are insufficient grounds to pursue the complaint, OEO will notify the alleged offender of the nature of the complaint and the decision not to pursue the complaint. Neither alleged victim's name nor information that would reveal the alleged victim's name will be included, except as required by law.

Prior to involving third parties as witnesses, OEO notifies the alleged offender of the complaint and determines if the Alternative Dispute Resolution process (05.044) or another solution to the complaint is available.

A decision not to immediately notify the alleged offender is made by OEO in consultation with the Dean of the college or school and justified in writing. The justification is included with the documentation provided to the alleged offender following the gathering of information.

OEO notifies the alleged offender's chair and Dean of the complaint and if the Alternative Dispute Resolution process (05.044), another solution to the complaint, or an investigation is in progress.

OEO consults with the Office of the Vice Chancellor and General Counsel to determine if a formal investigation is appropriate. If a formal investigation is warranted, the gathering of information from additional witnesses begins by the OEO.

The alleged victim and alleged offender (after receiving notification) are kept abreast of the stage of the investigation.

The alleged offender is given an opportunity to respond both orally and in writing to the allegations and evidence against the alleged offender prior to any determination of culpability.

The alleged offender's response must be made within ten (10) working days to the OEO.

OEO prepares a written report setting out the findings of the investigation.

- C. Alleged Offender is an Administrator: *Note: For purposes of this policy "administrator" is defined as persons holding the position of Assistant Dean or above, Assistant Vice President or above, and Director or above.*

1. Stage One: Alternatives to an Investigation. The alleged victim may seek information and informal advice from anyone with whom he/she feels comfortable including but not limited to, administrators and/or staff. The seeking of advice will not constitute filing of a formal complaint. However the person receiving the information may be required to report the incident in accordance with state or federal law or university policy.

The alleged victim (and/or alleged offender) may also seek mediation in accordance with the procedures found in the Voluntary Alternative Dispute Resolution Policy no. 05.044.

2. Stage Two: Investigation of a Formal Complaint (See Section G. Time period for investigation of a complaint)

The alleged victim may file a formal complaint with the Office of Equal Opportunity (OEO).

OEO meets first with the alleged victim to determine if a formal investigation is needed or if the Alternative Dispute Resolution process (05.044) or another solution to the complaint is available.

Should the OEO determine that there are insufficient grounds to pursue the complaint, OEO will notify the alleged offender of the nature of the complaint and the decision not to pursue the complaint. Neither alleged victim's name nor information that would reveal the alleged victim's name will be included, except as required by law.

Prior to involving third parties as witnesses, OEO notifies the alleged offender of the complaint and determines if the Alternative Dispute Resolution process (05.044) or another solution to the complaint is available.

A decision not to immediately notify the alleged offender is made by OEO in consultation with the Office of the Vice Chancellor and General Counsel and justified in writing. The justification is included with the documentation provided to the alleged offender following the gathering of information.

OEO consults with the Office of the Vice Chancellor and General Counsel to determine if a formal investigation is appropriate. If a formal investigation is

warranted, the gathering of information from additional witnesses begins by the OEO.

The alleged victim and alleged offender (after receiving notification) are kept abreast of the stage of the investigation.

The alleged offender is given an opportunity to respond both orally and in writing to the allegations and evidence against the alleged offender prior to any determination of culpability.

The alleged offender's response to the allegations and evidence must be made to the OEO within ten (10) working days of notification by the OEO.

OEO prepares a written report setting out the findings of the investigation.

V. Procedures for Pursuing and Resolving a Complaint of Discrimination When The Alleged Offender is a Visitor to the University or a Person Doing Business with The University:

1. Stage One: Alternatives to an Investigation. The alleged victim may seek information and informal advice from anyone with whom he/she feels comfortable including but not limited to, administrators and/or staff. The seeking of advice will not constitute filing of a formal complaint. However the person receiving the information may be required to report the incident in accordance with state or federal law or university policy.

The alleged victim may also seek mediation in accordance with the procedures found in the Voluntary Alternative Dispute Resolution Policy no. 05.044.

2. 2Stage Two: Investigation of a Formal Complaint. (See Section F. Time period for investigation of a complaint). The alleged victim may file a formal complaint with the Office of Equal Opportunity (OEO).

OEO meets first with the alleged victim to determine if a formal investigation is needed or if the Alternative Dispute Resolution process (05.044) or another solution to the complaint is available.

Should the OEO determine that there are insufficient grounds to pursue the complaint, OEO will notify the alleged offender of the nature of the complaint and the decision not to pursue the complaint. Neither alleged victim's name nor information that would reveal the alleged victim's name will be included, except as required by law.

Prior to involving third parties as witness, OEO notifies the alleged offender of the complaint and determines if the Alternative Dispute Resolution process (05.044) or another solution to the complaint is available.

OEO notifies Human Resources of the complaint and if the Alternative Dispute Resolution process (05.044), another solution, or an investigation is in progress.

A decision not to immediately notify the alleged offender is made by OEO in consultation with the Office of the Vice Chancellor and General Counsel and justified in writing. The justification is included with the documentation provided to the alleged offender following the gathering of information.

OEO consults with the Office of the Vice Chancellor and General Counsel to determine if a formal investigation is appropriate. If a formal investigation is warranted, the gathering of information from additional witnesses begins by the OEO.

The alleged victim and alleged offender (after receiving notification) are kept abreast of the stage of the investigation.

The alleged offender is given an opportunity to respond both orally and in writing to the allegations and evidence against the alleged offender prior to any determination of culpability.

The alleged offender's response to the allegations and evidence must be made to the OEO within ten (10) working days of notification by the OEO.

OEO prepares a written report setting out the findings of the investigation.

- VI. Resolution of the Complaint: Upon completion of the investigation, the findings will be forwarded to the department head/director and the next highest administrative level who should consult with the Office of the Vice Chancellor and General Counsel prior to determining appropriate actions and/or sanctions. In cases involving university employees other than faculty (e.g. staff or administrators), Human Resources must be consulted.

If the department head/director is the alleged offender the findings will be forwarded to the next highest administrative level. In cases involving visitors or persons doing business with the university, the findings will be forwarded to the Office of the Vice Chancellor and General Counsel for determination of appropriate action and/or sanctions.

In cases of findings against an accused, or in cases of a determination that an accuser has made claims falsely and maliciously, sanctions may be imposed.

In all instances, the sanctions imposed must be reported to the Office of Equal Opportunity for inclusion in the official record of the investigation.

Sanctions are disciplinary actions imposed on an individual, which may include punishment or other corrective actions. Sanctions for university employees may include, but are not specifically limited to reprimand, remediation, reassignment, ineligibility for pay raises, suspension and dismissal. In some instances the employee may be placed on leave of absence until final action is taken. Sanctions imposed on students will follow the Student Code of Conduct.

University Imposed: University sanctions for violations of the university policy on discrimination (including sexual harassment) may include any disciplinary action, up

to and including termination of employment for faculty, staff, and student employees or the dismissal of students. These activities may not be a violation of state or federal law, but such activities may be viewed as constituting moral turpitude or gross neglect of academic responsibilities under Appendix B-1 of the Faculty Handbook and a major work rule violation under the Performance Counseling and Discipline Policy.

Civil: Discrimination is illegal under federal and state law. Official governmental investigations by the Equal Employment Opportunity Commission, the Texas Commission on Human Rights, and/or the Office of Civil Rights of the Department of Education may result in civil liability against the University and any person found to have committed illegal discrimination.

Criminal: Sexual harassment by a public servant is a criminal offense under 39.02 of the Texas Penal Code. Depending on the severity of the acts, sexual harassment may also specifically include indecent exposure, public lewdness, assault, or sexual assault under Chapter 21 and 22 of the Texas Penal Code.

False Charges: False charges may result in disciplinary action against the complainant by the University or civil action against the complainant by the accused. An unsubstantiated charge is not considered "false" unless it is made with the knowledge that it is false.

- VII. Appeal of Findings and/or Sanctions: *Note: The Office of Equal Opportunity will provide a summary of the investigation, the findings, the decision, and sanctions for the appeals process.*

Faculty: Faculty may appeal findings and/or sanctions to the University Review Committee or in cases of tenure revocation to the University Tenure Committee. The Committee may recommend acceptance, modification or rejection of the findings and/or sanctions. Appeals to the University Review Committee are governed by policy 15.1.4, The University of North Texas Review Committee Charter and Bylaws. Appeals to the University Tenure Committee are governed by the Faculty Handbook, Sec. IV Faculty and University Governance, C. University Tenure Committee.

Staff, Administrators, Teaching Fellow and Teaching Assistants: Staff, administrators and Teaching Fellows and Teaching Assistants may appeal findings and/or sanctions under policy 05.042, Grievance. The appeal will begin at Step Four.

Students: Students may appeal findings and/or sanctions under the procedures in the Student Code of Conduct.

Visitors and Persons Doing Business with the University: Visitors and persons doing business with the university may appeal findings and sanctions to the President.

- VIII. Record Retention: Unless otherwise required by state law or the university's Records Retention Policy, records of complaints and investigations will be confidentially maintained by the University Archivist and discarded after 10 years unless other incidents occur within the 10 years. In all cases, access to complaint and investigation records is strictly limited to those university officials directly investigating or

adjudicating a complaint or implementing a complaint resolution, unless otherwise compelled by law.

References and Cross-references.

UNT Policy 16.004, Nondiscrimination/Equal Employment Opportunity, Affirmative Action, and Non Retaliation

UNT Policy 05.042, Grievance

UNT Policy 05.044, Voluntary Alternative Dispute Resolution System

UNT Policy 16.005, Sexual Harassment

Approved: 2/1/1993

Effective:

Revised: 8/95; 8/99; 8/00; 8/02; 4/2011 formatted.