

# PROCEDURE

## PRO-U2120.01 DISCRIMINATION COMPLAINT PROCEDURE

### Introduction

The university is committed to resolving complaints of illegal discrimination at the earliest and most informal level, conducting internal investigations in a timely and effective manner, adhering to the principles of due process in all investigations and hearings, and providing prompt corrective action if discrimination is found to have occurred. No individual shall be penalized, or retaliated against in any way by a member of the university community for his or her participation in this complaint procedure.

### Purpose and Jurisdiction

This procedure is limited to complaints which allege discrimination on the basis of race, color, creed, religion, national origin, sex (including sexual harassment), sexual orientation and gender expression or identity, age, marital status, disability (including failure to provide reasonable accommodation), or veteran status. Aggrieved parties will be referred to as complainants. Persons alleged to have engaged in illegal discrimination will be referred to as respondents.

This procedure is internal to the university and applies to incidents that take place at the university or are related to university operations. Individuals who may use this procedure include, but are not limited to:

- Individuals applying for enrollment or employment to the university
- Students
- Faculty, with or without rank
- Graduate assistants
- Classified employees
- University administrators
- Exempt professional employees
- Users of university services

Supervisors, unit heads, department chairs and others in leadership are charged with the responsibility of ensuring nondiscrimination in the employment and academic environment. Therefore, complainants are encouraged to bring their concerns to such leaders for resolution.

To facilitate investigation, complaints should be brought forward as soon as possible after the alleged act of discrimination.

Individuals also have the right to file complaints of discrimination with the appropriate state or federal agency or a lawsuit in a court with jurisdiction.

### Responsibility for Implementation

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The Vice Provost for Equal Opportunity and Employment Diversity has overall responsibility for assuring university compliance with nondiscrimination laws and regulations, and receives formal complaints.

The Equal Opportunity Office (EOO) receives informal complaints and requests for clarification on what constitutes illegal discrimination.

The Vice President for Student Affairs has responsibility for administration of the student conduct system and for determination of any disciplinary actions against students which might arise from a complaint of student misconduct. Procedures for this action are detailed in the Student Rights and Responsibilities Code, found in the University General Catalog and in the Washington Administrative Code at Chapter 516-23 WAC.

## Procedure

Confidentiality is essential in matters involving allegations of illegal discrimination. Complainants, respondents, and participants in these processes are urged to treat all information as confidential and to disclose information about the case only when it is absolutely essential to making the determinations involved in this procedure. Breaches of confidentiality may be the basis for claims of unprofessional conduct, student conduct code violations, or charges of slander and retaliation.

### 1. Informal Resolution

- a. **Discussion with respondent.** Complainants are urged to discuss with the respondent or bring to the attention of the respondent any inappropriate behavior in order to make the respondent aware of the manner in which his/her action is received and allow for self-corrective action.
- b. **Discussion with leadership encouraged.** If attempts to discuss their concerns with the respondent are unsuccessful or ill-advised, complainants are encouraged to discuss their concerns with the appropriate supervisor or department chair who is responsible for taking corrective action. The matter may be concluded by mutual consent at this point. Supervisors and chairs are encouraged to utilize the expertise of the Equal Opportunity Office when handling such matters and are advised to maintain documentation sufficient to demonstrate a timely, appropriate and adequate response.
- c. **Role of the Equal Opportunity Office (EOO).** If resolution satisfactory to the complainant does not occur, the complainant may contact the next person in the administrative line or the EOO to seek resolution. The EOO will assign a staff member to discuss options for handling the situation and make referrals to appropriate resources and support services. If the EOO has jurisdiction over the complaint, the complainant may authorize an attempt at informal resolution which shall be concluded within 15 working days after jurisdiction is determined.

At any point in the process, the complainant may provide written notification to the Equal Opportunity Office that the situation is resolved or that no further university action is desired. Written materials will be retained in active files for three years and in the University Records Center for four years.

### 2. Formal Complaints

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- a. **Filing the formal complaint.** A complainant who is not satisfied with the outcome of the informal resolution process may file a written complaint with the Vice Provost for Equal Opportunity and Employment Diversity. The complainant will submit a formal complaint form (available from the EOO) which will include a written statement describing the alleged discrimination. Upon receipt by the EOO, the complaint shall be marked with the date received. That date shall be referred to as the case filing date. Time limits set forth in these procedures may be extended by the Vice Provost, at his or her discretion, or upon written application to the Vice Provost by the complainant, respondent, or the unit Vice President. The Vice Provost shall inform the parties when extensions of the time limits are made. Only in extremely unusual circumstances may an extension prevent the procedure from being completed within 100 working days of the case filing date.
- b. **Determination of whether complaint is subject to procedures.** Within ten (10) working days of the case filing date, the Vice Provost or designee shall determine whether the facts alleged in the complaint fall within the purview of these procedures. If not, the complainant shall be notified in writing. No appeal may be taken internally of this determination. A complainant or respondent who feels that action is warranted even though the EOO has found otherwise may make a complaint through other internal procedures, such as the appropriate grievance committee, or externally to an agency such as the Equal Employment Opportunity Commission.
- c. **Steps taken to proceed with complaint.** If the Vice Provost determines that the complaint falls within the purview of these procedures, s/he shall:
  - i) Provide a copy of the complaint to the respondent(s), together with a copy of these procedures, and request a written response to the allegations
  - ii) Provide a copy of the complaint to the appropriate Vice President and the respondent(s)' Dean or unit head
  - iii) Consult with the complainant, the department chair or unit head, and the respondent(s), all of who may identify other persons having personal knowledge of the alleged incidents and all of whom will be advised of the necessity for confidentiality
- d. **Written response may be filed.** Within ten (10) working days after receiving notification of the complaint, the respondent may submit to the Vice Provost a written response to the complainant's allegations. The respondent is encouraged to provide a written response; however, refusal to answer a charge or to participate in an investigation will not prevent the process from proceeding. Refusal to respond may result in the investigation proceeding solely on the basis of the complainant's testimony and evidence.
- e. **Investigation assistance.** The investigation will be conducted by the Equal Opportunity Office. However, parties to the complaint may request that a representative of their constituent group be assigned to work with the EOO. Such representatives will be appointed by the Provost and trained by the EOO. (Faculty members appointed to assist in the investigation will be drawn

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from the membership of the Faculty Grievance Committee, subject to procedures in the Faculty Handbook Appendix E, III.B.C.D.)

Persons appointed to assist in an investigation may participate in the following manner:

- Assist the Vice Provost in the development and implementation of an investigative plan, including the development of questions that take into appropriate consideration issues of academic freedom and tenure
  - Assist the Vice Provost throughout the investigative process in gathering information, analyzing data acquired during the course of the investigation, and developing the investigative report and findings. The Vice Provost and/or his/her designee(s) alone will conduct all personal interviews.
- f. **Investigation and report.** Within forty-five (45) working days after determining jurisdiction, Vice Provost or her/his designee shall:
- i) Conduct an investigation, which may include interviews with those identified by the parties as having personal knowledge of the alleged incidents and others identified in the investigation whose testimony may shed light on the complaint
  - ii) Review written responses as appropriate
  - iii) Prepare a written investigative report and findings which detail the investigation process, lists the persons interviewed or consulted, and summarizes the information obtained
  - iv) Provide a copy of the investigative report and findings to the complainant(s), respondent(s), the appropriate Vice President, the appropriate Dean, and the department chair or unit director
- g. **Review by Vice President.** Within 10 working days after receiving the investigative report, the appropriate Vice President or designee will determine appropriate actions in response to the findings. The Vice President's response shall be documented in writing and provided to all appropriate parties, including the EOO. Should the resolution of a complaint result in disciplinary action(s) for the respondent, the respondent(s) may seek review of the action(s) using the appropriate appeal procedures.
- i) **Sanctions.** Sanctions to be considered by the Vice President can vary in type, intensity and duration, depending on the specifics of each case. All sanctions, with the exception of termination or dismissal, may include mandatory training sessions. Upon request from a faculty respondent, the Vice President may seek the advice of selected members of the Senate Executive Council in determining a sanction. Dismissal procedures will conform to the specifications in the Faculty Handbook, including the AAUP guidelines referenced therein. Examples of sanctions to be considered are:

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- ii) Letters of reprimand
- iii) Community/public service
- iv) Monetary compensation to complainant
- v) A reduction of job responsibility or demotion
- vi) Denial or postponement of leaves or salary increases
- vii) Suspension from employment
- viii) Dismissal or suspension from the university

### 3. Complaint Initiated by Administration

The President, Provost, Vice Presidents, Deans, Directors, Supervisors or Chairs, if given sufficient cause, may request that the EOO conduct an investigation. The administrator requesting the investigation will then act as the complainant and must specify the persons, with their permission, who are alleged to be the victims of the questionable conduct. The EOO will use the same notification and process guidelines outlined in the internal complaint procedure. In the event that the investigation indicates that illegal discrimination has occurred, appropriate disciplinary action may be taken. The administrator who initiated the complaint will not be involved in reviewing the findings or determining sanctions. Appeal of any such action may be filed under the appropriate grievance procedure or relevant disciplinary process.

### 4. Investigative Record

- a. **Records custodian.** The EOO shall maintain the investigative records for complaints filed pursuant to these procedures. The investigative records shall include the written complaint, the written response, investigative summaries of the Vice Provost other written materials considered in the course of the investigation, the Vice Provost's written report, the Vice President's written response to the investigative report, and any documentation which confirms that actions recommended by the Vice President were taken. The investigative records shall be maintained under appropriate security in the EOO.
- b. **Records retention.** The investigative file will be retained in the EOO files for three (3) years and in the University Records Center for four (4) years.
- c. **Investigative records not subject to public disclosure.** Investigative records pertaining to claims of discrimination in employment or unfair practices under chapter 49.60 RCW, the state's Law Against Discrimination, are not subject to public disclosure under the Public Records Disclosure Law, Chapter 42.17 RCW. In the event disciplinary action is taken against an employee, those personnel records relating to specific instances of misconduct may be subject to disclosure pursuant to the Public Records Disclosure Law.

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### 5. Filing a False Complaint or Retaliating Against Participants in the Process

Filing a false complaint is considered to be serious misconduct and such offenses will be subject to the full range of sanctions. A finding that discrimination did not occur will not in itself be the basis for a charge of false complaint. Similarly, retaliating against participants in these proceedings is serious misconduct, and is subject to sanction. The procedure described in this document will be available to anyone who wishes to allege that a false complaint has been filed or that retaliation has taken place.

### 6. Alternative Complaint Process

- a. **Internal.** The complainant may not elect to use other internal grievance procedures (such as the faculty grievance procedure, student conduct code, or labor agreement grievance procedure) for complaints pertaining to claims of illegal discrimination.
- b. **External.** A person who believes that s/he has been the subject of discrimination prohibited by state or federal law may choose to file a discrimination complaint by contacting one of the following agencies within their established time limits.

Washington State Human Rights Commission  
1511 Third Avenue - Melbourne Tower, Suite 921  
Seattle, WA 98101-1626  
Phone: (800) 605-7324  
TTY: (206) 587-5168

U.S. Department of Education - Office of Civil Rights  
915 - 2nd Avenue, Room 3310  
Seattle, WA 98174-1099  
Phone: (206) 220-7900  
TTY: (206) 220-7907

U.S. Department of Health and Human Services - Office for Civil Rights  
2201 Sixth Avenue, Suite 900, MS:RX-11  
Seattle, WA 98121-1831  
Phone: (206) 615-2290  
TDD: (206) 615-2296

Office of Federal Contract Compliance - Seattle Office  
1111 Third Ave. Suite 745  
Seattle, WA 98101-3212  
Phone: (206) 398-8000

Equal Employment Opportunity Commission - Seattle Field Office  
909 First Avenue, Suite 400  
Seattle, WA 98104-1061  
Phone: (800) 669-4000  
TTY: (800) 669-6820

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