

MONMOUTH UNIVERSITY

Policies and Procedures

Policy Name: Procedures for Reporting and Resolving Complaints of Discrimination and Sexual Harassment Against Non-Faculty Employees

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Approved By: President's Cabinet

I. INTRODUCTION

Consistent with the University's mission as an institution of higher education and its policies against discrimination and sexual harassment, the University abides by all applicable federal, state and local laws which prohibit discrimination on the basis of race, religion, color, national or ethnic origin, age, sex (including sexual harassment), sexual orientation, marital status or disability in any educational or employment program, policy, or practice of Monmouth University (including outside contractors and visitors). In accordance with these laws and policies, the University also prohibits retaliation against anyone that has complained about discrimination or otherwise exercised rights guaranteed by these laws. Regardless of the means selected for resolving allegations of discrimination, including sexual harassment, the initiation of a complaint will not cause any reflection on the complainant nor will it affect such person's employment, compensation or work assignments or, in the case of students, grades, class selection or other matters pertaining to his or her status as a student at the University. Every effort should be made to resolve any incident as soon as possible while the facts and potential testimony of witnesses, if any, are current.

II. PROCEDURE

The procedures described below are provided for the prompt and equitable resolution of complaints by faculty, students and non-faculty employees who believe they have been subjected to discrimination, including sexual harassment in violation of the University's policy against discrimination and sexual harassment. These procedures will be followed when the alleged violator is not a faculty member or a student of the University. Separate procedures address faculty members. Allegations of discrimination, including sexual harassment involving a student, are addressed through the Student Code of Conduct. Nothing in this procedure shall limit or prohibit the filing of a grievance or action under a collective bargaining agreement, the University's Code of Conduct for student disciplinary actions or with an external agency responsible for addressing issues of discrimination or sexual harassment.

All employees and students, covered by this procedure, who believe they have been subjected to discrimination, including sexual harassment, have several ways to make their concerns known.

A. Initial Attempt at Informal Resolution (Optional)

1. If a person believes that he or she has been discriminated against, the following are the optional procedures for informal resolution. If the complainant wishes, he or she may choose to file a formal complaint rather than pursue the procedures for informal resolution.
(See Section II C).
2. Those initiating an informal resolution process may inform, either orally or in writing, the individual perceived as engaging in discriminatory conduct or communication as soon as possible that such conduct or communication is offensive and must stop. If a meeting is arranged, a neutral witness should be present.
3. If a person does not wish to or feel comfortable communicating directly with the alleged violator or if the direct communication with that individual has not resolved the problem, the person should contact one of the following for assistance or advice as soon as possible:
 - a. Your immediate supervisor, appropriate School Dean or Chairperson.
 - b. Counselor/Advisor in Counseling and Psychological Services.
 - c. The Vice President for Student Life and Leadership Engagement.
 - d. The Vice President for Administrative Services.
 - e. The Provost.
 - f. The Director of the Office of Equity and Diversity.
4. The Director of the Office of Equity and Diversity may be contacted directly at any time regarding any issue of discrimination or sexual harassment. Again, if the individual filing the complaint wishes, he or she may choose to file a formal complaint, (see Section II, C for formal complaint procedures).
5. Any University official approached with a complaint pursuant to this procedure, including the appropriate officials listed above, shall immediately notify the Director of the Office of Equity and Diversity of the complaint and its substance.
6. The Director of the Office of Equity and Diversity will initiate the informal resolution process.

B. Informal Resolution Process

1. The initial attempt at resolving a complaint regarding discrimination or sexual harassment may be conducted according to an informal process.
2. During this initial phase, the student or employee filing the complaint (complainant) may meet with the appropriate University officials designated in Section II, A.2 or the Director of the Office of Equity and Diversity in order to describe the complaint verbally. While no written outline of the complaint is required at this stage, such a written outline or any other written materials related to the complaint will be reviewed.
3. The Director of the Office of Equity and Diversity will investigate the complaint informally. This investigation may include but is not limited to meetings with the complainant, the person accused of having committed the alleged act or acts (respondent) and any other appropriate campus administrators, faculty members, members of the nonacademic staff and/or students who may have knowledge of the situation.
4. The following items shall be included in the initial meeting with both the complainant and the respondent as soon as possible thereafter:
 - a. A copy of the University policy allegedly violated and these procedures will be given.
 - b. Assurance that the matter will be pursued.
 - c. Assurance that the Director of the Office of Equity and Diversity or another appropriate official will be available throughout the process to answer questions or address concerns.
 - d. Assurance that the matter will be kept confidential to the extent possible.
 - e. A statement regarding non-retaliation.
5. The Director of the Office of Equity and Diversity, along with, when appropriate, other involved University officials, shall discuss the initiation of the complaint with the respective parties, the process of investigation and resolving the complaint, and the timetable for the completion of this process, i.e., investigation, resolution and recommendation. An attempt to resolve the complaint with the complainant and the respondent will follow.
6. The Director of the Office of Equity and Diversity will attempt to reach an informal resolution within fifteen (15) working days and inform the complainant of the results in writing, including providing information about how to file a formal complaint. If the informal resolution is not completed, the Director of the Office of Equity and Diversity will contact the complainant who

may choose to extend the informal process for up to fifteen (15) working days or to move directly to the formal complaint process.

7. Every effort will be made to resolve the complaint at the lowest level possible and consistent with the desires of the person bringing forward the complaint. However, the University recognizes that under certain circumstances, it has a legal obligation to ascertain where discrimination and/or sexual harassment exist irrespective of whether a formal complaint is actually filed. Therefore, at any point during the informal process, either the complainant, respondent or the Director of the Office of Equity and Diversity may move the complaint to the formal process set forth below.

C. Formal Complaint Procedure

1. Should the initial informal attempt or attempts to resolve the matter be unsuccessful, the complainant may initiate the formal complaint procedure. A formal complaint must be submitted in writing to the Director of the Office of Equity and Diversity.
2. The student or employee should file a formal complaint within ninety (90) working days following the last alleged discriminatory incident. Where the informal complaint process has been pursued, the ninety (90) day limit can be extended.
3. When a student believes that it is not in his or her best interest for a complaint to be investigated during the course of a semester, the formal complaint must still be filed within the above time limit. However, at the written request of the student and approval by the Director of the Office of Equity and Diversity, notice to the charged parties shall be delayed to no later than fourteen (14) working days after the end of the semester in which the alleged discriminatory act is alleged to have occurred. Under such circumstances, all of the time limits dependent on the date of the formal complaint shall start to run from within fourteen (14) working days after the end of the semester.
4. The written complaint must be filed with the Office of Equity and Diversity and must include the following:
 - a. The complainant's name, campus location, and status within the University community, including title, department, and school as appropriate.
 - b. The basis of the alleged act or acts of sexual harassment or discrimination; that is, race, religion, color, national or ethnic origin, age, sex, sexual orientation, marital status or disability.
 - c. A brief description of what occurred, including dates, times and names of witnesses or individuals who can corroborate the allegations, and the complainant's reason for concluding that the behavior or action was discriminatory or sexually harassing.

- d. The name and position in the University community held by the person or persons who committed the alleged act(s).
- e. Copies of materials, if any, which may be relevant to the investigation of the complaint.
- f. The date on which the alleged act(s) was committed.
- g. The date on which the complainant first knew of the alleged act(s), and any steps the complainant has taken to date, if any, to resolve the complaint.
- h. A statement indicating the remedy sought by the complainant.
- i. The signature of the complainant.

D. Procedures for Investigating Formal Written Complaints

1. As soon as possible, but within fourteen (14) working days after receipt of the written complaint, the Director of the Office of Equity and Diversity of the University shall review the materials which comprise the written complaint and commence investigation of the complaint. The Director of the Office of Equity and Diversity shall consult, if appropriate, with a faculty resource person with regard to academic and classroom behavioral issues. The Provost when appropriate, upon request from the Director of the Office of Equity and Diversity, shall select the faculty resource person. The formal investigation may include initial meetings with the complainant and with the respondent, a discussion of the available procedures and an exploration of possible avenues for resolution of the complaint. As part of the investigation, the Director of the Office of Equity and Diversity will notify the respondent of the allegations within the ten (10) working days from receipt of the complaint, and shall provide the respondent with a copy of the written complaint.
2. If the investigation of a complaint would require interviewing students or employees who may not be available between semesters, and those interviews are significant to the complaint, these deadlines will be delayed until the beginning of the following semester and the complainant so notified.
3. Possible outcomes of an investigation are (1) a finding that the allegations are not warranted or could not be substantiated, (2) a finding that the allegations are substantiated and constitute sexual harassment, discrimination, or inappropriate behavior and, if so, will be referred to the appropriate administrative authority for corrective action, (3) a finding that the allegations were brought forth in bad faith or a malicious manner and, if so, will be referred to the appropriate administrative authority for corrective action, (4) a finding that the allegations could not be substantiated, but still warrant preventative or corrective action by the University.
4. The Director of the Office of Equity and Diversity shall, as soon as possible, but within sixty (60) working days after receipt of the written complaint, make every effort to complete a

fact-finding investigation of the complaint and submit a final report to the Vice President and General Counsel.

5. The Vice President and General Counsel will review the findings of the investigation with the appropriate area Vice President, who will then take appropriate action. The Director of the Office of Equity and Diversity will be notified by the Vice President and General Counsel as to the proposed actions, if any, against the parties in the complaint.
6. The Director of the Office of Equity and Diversity will within five (5) working days notify all parties of the determination and consult with the appropriate University authorities to insure implementation of the decision.

E. University Action

The University may assume the role of a complainant and pursue a report or complaint of sexual harassment or discrimination, either informally or formally. The University may respond to complaints or reports by persons external to the University community about alleged sexually harassing or discriminatory conduct by University employees.

III. DISCIPLINE

Whenever a violation of this policy is brought to the University's attention through appropriate channels, prompt corrective action will be taken. For example, individuals found to have engaged in discrimination, sexual harassment or retaliation pursuant to these procedures may be subject to disciplinary action for violations of the University's policies (up to and including separation from the University). The University will follow applicable University procedures in taking any disciplinary action. Any disciplinary action taken against a member of a collective bargaining unit will be in accordance with the applicable collective bargaining agreement.

IV. APPEALS

Any party aggrieved with the resolution of the complaint by the appropriate Vice President under Section II, D.4 above may appeal that resolution to the President within fourteen (14) working days of the notification by the appropriate Vice President. Such an appeal shall be submitted in writing and shall be decided within fourteen (14) working days of its receipt. The determination of the President will be deemed final and binding.

V. CONFIDENTIALITY

1. Cases involving discrimination and especially sexual harassment are particularly sensitive and demand special attention to issues of confidentiality. Dissemination of information relating to the case should be limited to individuals who have a legitimate need to know or who have

information relevant to the investigation in order that the privacy of all individuals involved is safeguarded to the extent practicable under the circumstances.

2. Every effort should be made to protect members of the University community so that they may use the discrimination and sexual harassment grievance procedures without fear of reprisal or retaliatory action.
3. University employees and students are obligated to comply with requests to provide statements during an investigation.

VI. FALSE CHARGES

Once a complaint of sexual harassment and/or discrimination has been made, the University has an obligation to investigate the matter. Any complaint determined to be intentionally dishonest or made maliciously without regard for the truth shall subject such complainant to disciplinary action. The determination as to whether a complaint constitutes a false charge under this section shall be made as part of the complaint resolution process set forth in these procedures.

VII. MONITORING

1. The Director of the Office of Equity and Diversity shall monitor all reported incidents of alleged discrimination and sexual harassment for an appropriate time period, subsequent to their resolution, to ensure that the offending conduct has ceased, any corrective action has been complied with and retaliatory actions have not occurred.
2. The Office of Equity and Diversity will monitor repeated complaints within the same unit or against the same individual. Where repeated complaints or violations are identified, the Office of Equity and Diversity will respond accordingly with training, education, and/or disciplinary action.

VIII. TIME LIMITS

1. All of the time limits contained in this document may be extended for good cause, upon notification to the parties and the Director of the Office of Equity and Diversity.
2. If the complainant fails to respond within the time limits provided, upon written notice of such failure, the complaint may be deemed to have been withdrawn.

IX. TAPE RECORDINGS

1. During the formal investigation process, the Director of the Office of Equity and Diversity shall tape record all interviews for the purpose of creating a transcript of the interview. Once

the recordings have been transcribed, reviewed and signed by the person interviewed, the tapes will be destroyed.

2. Tape recording of interviews will not be allowed by anyone else.

X. RELEASE OF DOCUMENTS

Except as stated in Section II, D.3 above, documents obtained in the course of an investigation (formal or informal) will not be released to any party of the investigation.

XI. REPRESENTATION

1. No party, including the complainant, respondent or witnesses shall be allowed to have an attorney present at the proceedings for these procedures.
2. Any complainant or respondent who is a member of a collective bargaining unit may have his or her union representative present during proceedings under these procedures.

XII. RECORD KEEPING

1. All records required to be kept by the Director of the Office of Equity and Diversity, including tape recordings of interviews, are confidential. The records shall be so noted and maintained in the files of the Director of the Office of Equity and Diversity.
2. Records pertaining to individuals who have either filed complaints or who have been subject of complaints shall be maintained in the Director of the Office of Equity and Diversity's files. Except as required by University policy and/or law, no records maintained by the Director of the Office of Equity and Diversity shall be released.

XIII. RETALIATION

The University will take appropriate steps to assure that a person who in good faith reports, complains about, or participates in an informal resolution or formal investigation of a sexual harassment or discrimination allegation will not be subjected to retaliation. The University also will take appropriate steps to assure that a person against whom such an allegation is made is treated fairly. The Director of the Office of Equity and Diversity will take appropriate follow-up measures to assure the goals of this policy are met. Persons who believe they are experiencing retaliation are strongly encouraged to lodge a complaint with the University using the same procedure for lodging a discrimination/sexual harassment complaint.

XIV. REPORTING REQUIREMENTS

To assure University-wide compliance with this policy and with federal and state law, the Office of Equity and Diversity must be advised of all reported incidents of sexual harassment and discrimination and their resolution.

XV. EMPLOYMENT-AT-WILL

This procedure is intended to provide for the prompt and equitable resolution of student and employee complaints alleging discrimination and sexual harassment. It is not intended to create, and does not create, an employment contract or a guarantee of continued employment for any employee. Nor does this policy abrogate or limit the at-will status of any University employee. Therefore, the University is free to discharge at-will employees at any time for any reason, just as an employee may resign at any time for any reason. Furthermore, the University may amend or rescind any of the provisions of this policy and the procedure from time to time in its sole discretion.