



# Northern Illinois University

## **Nondiscrimination, Harassment, and Retaliation Policy and Complaint Procedures**

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## 1. Statement of Purpose

Northern Illinois University (“NIU” or “university”) is committed to providing an educational and employment environment free from unlawful discrimination, harassment, and retaliation. The university will not tolerate unlawful discrimination, harassment, or retaliation and will comply with all applicable federal, state, and local nondiscrimination and equal opportunity laws, orders, and regulations. Consistent with procedural and substantive due process, NIU has developed policies and procedures intended to protect the rights of its students, employees, and the university community. This Policy provides an internal avenue to address allegations of discrimination and harassment based on the protected classes identified herein, and allegations of retaliation, in a reasonable, objective, and private manner.

The NIU Board of Trustees has delegated the authority and responsibility to implement the various elements of this Nondiscrimination, Harassment, and Retaliation Policy and Complaint Procedures (“Policy”) to university administration. The Ethics and Compliance Office (“ECO”) has been tasked with the responsibility to respond to allegations of violations of this Policy. These procedures outline how ECO will address reports and complaints alleging discrimination, harassment, or retaliation in violation of this Policy.

## 2. Scope

This Policy applies to the conduct of current university employees. This Policy also applies to vendors, contractors, and third parties of the university during their interactions with the university community. Students must adhere to the Student Code of Conduct, which includes prohibitions against harassment and retaliation.

This Policy applies to conduct occurring within the workplace and conduct concerning access to and treatment in all university programs and activities, including admissions. The university also reserves the right to review conduct that occurs outside the workplace if it impacts the university’s interests, such as the safety and wellbeing of the campus community.

Individuals who believe they have been subjected to discrimination, harassment, or retaliation in violation of this Policy may file a complaint as outlined in Section 5 of this Policy. This includes, but is not limited to, students, employees, applicants, visitors/guests, former university employees, former students, vendors, and contractors.

The university recognizes the importance and value of academic freedom so that faculty members and students can freely engage in the intellectual exchange of ideas. Thus, this Policy is not intended to interfere with the use of materials appropriate to the academic context, including classroom discussions and scholarly research. Additionally, this Policy is consistent with the university’s [Policy Concerning Freedom of Expression](#).

## 3. Policy

University employees, vendors, contractors, and third parties, as defined herein, are prohibited from discriminating against or harassing any person based on that person’s actual or perceived membership in a protected class under applicable federal and state statutes, regulations, and orders pertaining to

nondiscrimination, equal opportunity, and affirmative action. Protected classes include, but are not limited to, the following:<sup>1</sup>

Age (40 and over)	Military status
Ancestry	Order of protection status
Arrest record (in employment/personnel matters)	Political affiliation
Citizenship status	Pregnancy
Color	Race
Conviction record (in employment/personnel matters)	Religion
Disability (physical or mental)	Sex
Gender	Sexual orientation
Gender expression	Unfavorable discharge from military service
Gender identity	Veteran status
Genetic information	Protection as a victim of a crime of violence
Marital status	Work authorization status (in employment/personnel matters)
National origin	

This Policy also prohibits university employees, vendors, contractors, and third parties from retaliating against an individual because that individual engaged in a protected activity, in good faith, such as making an informal or formal report alleging wrongful or unlawful activity; assisting others in making such a report; or participating in an investigation or proceeding related to an alleged wrongful or unlawful activity.

#### **4. Nondiscrimination Statement related to Title IX, Section 504, and Title II**

Academic and employment decisions based upon sex or gender and/or acts of sexual misconduct are forms of unlawful sex discrimination under Title IX, additional federal and state laws, and are prohibited under this and other university policies. The university does not discriminate on the basis of sex, gender, or gender identity in any of its academic or employment programs; the university is required by Title IX and other applicable laws not to discriminate. The university also does not discriminate against its students, staff, and the general public on the basis of disability in violation of Section 504 and Title II. The following entities are designated to coordinate the university's efforts to comply with Title IX, Section 504, and/or Title II:

Title IX Coordinator  
Health Services 230  
[TitleIXCoordinator@niu.edu](mailto:TitleIXCoordinator@niu.edu)  
815-753-5560

ADA Coordinator  
Health Services 427  
[ADA@niu.edu](mailto:ADA@niu.edu)  
815-753-6038

Assistant Vice President for Student Affairs  
Altgeld Hall 208  
[Student\\_Affairs@niu.edu](mailto:Student_Affairs@niu.edu)  
815-753-1573

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<sup>1</sup> Protected classes are further defined using factors established in applicable federal and state statutes, regulations, orders, guidance, and case law.

## 5. Training

Employees are required to complete training on discrimination, harassment, and retaliation within thirty days of commencement of employment and on an annual basis thereafter. Failure to complete this training is a violation of this Policy and may be considered a performance issue, which could result in an appropriate level of corrective action.

## 6. Pregnancy

The university prohibits discrimination against individuals based on pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery from any of these conditions. For more information about pregnancy-related accommodations for students, contact the Center for Student Assistance, Campus Life Building 150, 815-753-8300, [studentassistance@niu.edu](mailto:studentassistance@niu.edu). For more information about pregnancy-related accommodations for faculty and staff, contact the ADA Coordinator, Health Services Building 427, 815-753-6038, [ADA@niu.edu](mailto:ADA@niu.edu).

## 7. Definitions of Policy Violations

### Discrimination – In General

Discrimination is defined as an employment or academic decision that results in negative or different treatment based on the individual's actual or perceived membership in a protected class.

In the academic setting, forms of discrimination include, but are not limited to, the following:

- Any aspect of admission to the university.
- Programs or organizational activities.
- Educational performance.
- Treatment in the classroom or grading.
- Academic activities external to the classroom.
- Counseling.
- Career planning and placement services.
- Financial assistance.
- Health services.
- Insurance.
- Athletics.
- Access to university facilities.
- Failure to accommodate.
- All other student activities that have a reasonable impact upon students at the university.

In the employment setting, forms of discrimination include, but are not limited to, the following:

- Hiring and termination.
- Compensation, assignment, or classification.
- Transfer, promotion, layoff, or recall.
- Failure to accommodate.
- Job advertisements.
- Recruitment.
- Testing.

- Use of university facilities.
- Training and apprenticeship programs.
- Fringe benefits.
- Pay, retirement plans, and disability leave.
- Disciplinary actions.
- Other terms and conditions of employment.

## Harassment – In General

Harassment is defined as unwelcome verbal, written, visual, or physical conduct, including via electronic means, that is based on the individual’s actual or perceived membership in a protected class and the conduct is sufficiently severe or pervasive to:

- Unreasonably interfere with the individual’s work or academic performance;
- Limit or deny the individual’s ability to participate in or benefit from a university program or activity; or
- Create a hostile, intimidating, or offensive employment or academic environment.<sup>2</sup>

The following factors are considered when determining whether the conduct is severe or pervasive enough to be considered a form of harassment from a subjective and objective viewpoint:

- **Context:** What were the circumstances surrounding the conduct? What are the characteristics and circumstances of the complainant? Did the conduct occur while performing work duties?
- **Nature:** What was the nature of the conduct? Was it verbal or physical conduct? What was the extent of hostility? Did the conduct result in injury or was there a threat to injure a person or property? Would a similarly situated, reasonable person consider the conduct to be offensive? Has the conduct unreasonably interfered with the employment or academic environment?
- **Scope:** Was the conduct directed toward the complainant? Was the conduct overheard by the complainant? Was the conduct witnessed by the complainant (e.g., graffiti or a photograph)?
- **Frequency:** How often did the conduct occur?
- **Duration:** How long did the conduct last?
- **Location:** Where did the conduct occur? Was the conduct in a private and personal environment or a public area? Did the conduct occur in the workplace or on university property?
- **Identity, number, and relationships of persons involved:** How many people were involved in the conduct? What is/was their relationship to the other persons involved (e.g., student-faculty, student-staff, employee-supervisor, employee-employee, etc.)?

## Purpose or Effect

An individual who does not purposefully or intentionally harass another could be found in violation of this Policy if the effect of the action can be shown to have harmed that person by unreasonably interfering with their work or academic performance, limiting or denying their ability to participate in or benefit from a university program or activity, or creating an intimidating, hostile, or offensive employment or academic

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<sup>2</sup> A complaint of sexual or gender harassment will first be reviewed under the university’s [Sexual Misconduct Policy and Complaint Procedures](#) (“*Sexual Misconduct Policy*”). If the allegations in the complaint do not meet the definition of sexual or gender harassment under the *Sexual Misconduct Policy*, the complaint may then be reviewed under this Policy.

environment. Therefore, it is not just the intent that is considered, but also the effect of the conduct on the recipient in determining whether a violation of this Policy has occurred.

It is recognized that certain complaints may be subjective, as individuals react differently to the behavior of others. Thus, it is both the subjective and objective (similarly situated, reasonable person) perspective in the totality of circumstances that is considered in determining whether an individual has been subjected to harassment. If conduct is subjectively intimidating, hostile, or offensive to a complainant, but to a similarly situated, reasonable person it is not, a violation of this Policy will not be found to have occurred.

### **Intersection with the Educational Setting**

NIU recognizes and respects the importance of academic freedom and the responsibility of each academic unit to educate students. NIU also recognizes that some academic disciplines or coursework involve information or instruction that may result in dialogue or communication that may be offensive to some students. In recognition of this possible result, all complaints that occur in the classroom will be reviewed in reasonable relation to the course curriculum and required instruction. In most instances, a determination that this Policy has been violated will not result based upon the sole fact that an individual became offended in the classroom if there is sufficient evidence to suggest that the instruction, dialogue, or communication was reasonably related to the course curriculum.

As an advisory, academic units are strongly encouraged to consider the following:

- Classroom discussions that are explicit in nature should be contained to the classroom and must be directly related to the intended course curriculum and the subject being discussed. Any extracurricular or personal discussion that occurs between a student and faculty member that may be explicit or offensive is strongly discouraged.
- All students should be verbally and expressly advised in advance about any content of the course that may be offensive or triggering and the dialogue that could result from such instruction. This advisory statement should be contained in a course syllabus and some form of written documentation should be available as evidence that the student read and understood the statement.
- Each faculty member should make every attempt to ensure that dialogue does not become offensive beyond what is reasonably required for the group discussion.

### **Types of Sexual Harassment**

Sexual harassment is a form of harassment prohibited by this Policy. There are two types of sexual harassment: “quid pro quo” and “hostile environment.”

“Quid pro quo” is the Latin term for “this for that.” Quid pro quo sexual harassment includes any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when: 1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment; or, 2) submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting the individual. Examples of quid pro quo sexual harassment include a supervisor demanding sexual favors in exchange for a raise or promotion, or a professor demanding sexual favors in exchange for a higher course grade.

Hostile environment sexual harassment includes any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when such conduct has the purpose or effect of substantially interfering with an individual’s work or academic performance; limits or denies the individual’s ability to

participate in or benefit from a university program or activity; or creates an intimidating, hostile, or offensive employment or academic environment.

### **Notice of Sexual Harassment and Responsible Employee Reporting**

Faculty and staff should be knowledgeable of and understand university reporting requirements regarding information about actual or suspected sexual misconduct. Sexual misconduct includes sexual harassment, sexual assault, dating violence, domestic violence, and stalking. For information about whether you are a responsible employee and are required to report actual or suspected sexual misconduct, please consult with your supervisor or the university's Title IX Coordinator. For more information about being a responsible employee and the corresponding reporting obligations, please refer to the university's [Sexual Misconduct Policy](#).

### **Consensual Relationships and Conflicts of Interest**

When a power differential exists between two individuals, it may be exceedingly difficult to defend against a charge of sexual harassment on the grounds that the relationship was consensual. Thus, a defense based on consent is challenging to prove when the facts establish that the respondent had the power to affect the complainant's academic or employment status, benefits, or prospects.

For further information on consensual relationships, please refer to the university's [Consensual Relationships Between Faculty, Staff, and Students Policy](#).

### **Retaliation – In General**

Retaliation is defined as an individual experiencing an adverse action because of their engagement in a protected activity.

To establish a claim of retaliation, the following three factors must be shown by the evidence:

- 1) The individual engaged in a protected activity.
- 2) The individual experienced an adverse action.
- 3) There is a causal link between the protected activity and the adverse action.

The university does not condone or tolerate acts of retaliation against any individual who has engaged in a protected activity, as defined by this Policy or applicable law. The university strongly encourages its employees and students to report any act of retaliation to ECO immediately.

### **Protected Activity**

An individual engages in a protected activity when they, in good faith, informally or formally report or oppose an alleged wrongful or unlawful activity; assist others in making such a report; or participate in an investigation or proceeding related to an alleged wrongful or unlawful activity.

Examples of activities that may be wrongful or unlawful include discrimination or harassment, unethical conduct, academic misconduct, research misconduct, arbitrary or capricious treatment/grading, suspected abuse or neglect, and other violations of university policies and procedures and federal or state law and regulations.

Retaliation may be found to have occurred even absent a decision that the reported or opposed activity is actually wrongful or unlawful. Additionally, the protection against retaliation extends to individuals who



are closely related to or associated with the individual who reported or opposed the alleged wrongful or unlawful activity.

### **Adverse Action**

An adverse action is a material action that would dissuade a reasonable person from engaging in the protected activity.

With respect to any aspect of employment, adverse actions include, but are not limited to, discharge, demotion, suspension, denial of promotion or job benefits, or refusal to hire absent a legitimate, nonretaliatory reason to do so. Other examples include, but are not limited to, threats, reprimands, unsubstantiated negative evaluations, harassment, or acts of sabotage against the individual that reported or opposed the alleged wrongful or unlawful activity.

With respect to any aspect of education, adverse actions include, but are not limited to, receipt of a reduced grade, limitation or denial to participate in an educational program or activity, dismissal from a program, referral to a disciplinary body of the university, or negative references absent a legitimate, nonretaliatory reason to do so.

### **Causal Link**

A causal link between the protected activity and the adverse action may be established when there is evidence to prove that the individual's engagement in a protected activity was a motivating factor in the respondent's adverse action against the individual. The causal link may be established through the timing of events and/or direct or circumstantial evidence that establishes a motivating factor.

## **8. Reporting**

### **File a Complaint with the University**

Individuals who have been subjected to, witnessed, or otherwise learned of discrimination, harassment, or retaliation may file a complaint with the university online using the below links:

Discrimination or harassment complaint: [go.niu.edu/file-discrimination](https://go.niu.edu/file-discrimination)

Retaliation complaint: [go.niu.edu/file-retaliation](https://go.niu.edu/file-retaliation)

An individual may also contact ECO via email at [ECO@niu.edu](mailto:ECO@niu.edu) to file a complaint or seek additional information.<sup>3</sup>

All complaints are assumed to be made in good faith. However, if the evidence establishes that the complaint was intentionally falsely made, corrective/disciplinary action will be taken, up to and including suspension, expulsion, or termination. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a policy violation determination.

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<sup>3</sup> A complaint of sexual misconduct may be filed online at [go.niu.edu/File-Misconduct](https://go.niu.edu/File-Misconduct). If applicable, the procedures contained in the [Sexual Misconduct Policy](#) will be adhered to for complaints of sexual misconduct.

## File a Complaint Externally

Individuals may also file a complaint external to the university with the agencies listed below:

Illinois Department of Human Rights – Chicago Office  
James R. Thompson Center  
100 W. Randolph Street  
10<sup>th</sup> Floor, Intake Unit  
Chicago, IL 60601  
Phone: 312-814-6200  
TTY: 866-740-3953  
Fax: 312-814-6251  
[www.state.il.us/dhr](http://www.state.il.us/dhr)

Equal Employment Opportunity Commission — Chicago District Office  
John C. Kluczynski Federal Building  
230 S. Dearborn Street  
Chicago, IL 60604  
Phone: 312-872-9744  
TTY: 866-740-3953  
ASL Video Phone: 844-234-5122  
Fax: 312-588-1260  
[www.eeoc.gov](http://www.eeoc.gov)

Office for Civil Rights – Chicago Office  
U.S. Department of Education  
John C. Kluczynski Federal Building  
230 S. Dearborn Street, 37th Floor  
Chicago, IL 60604  
Phone: 312-730-1560  
TDD: 800-877-8339  
Fax: 312-730-1576  
Email: [OCR.Chicago@ed.gov](mailto:OCR.Chicago@ed.gov)  
<http://www.ed.gov/about/offices/list/ocr/index.html>

Office of the Executive Inspector General – Chicago Office  
69 W. Washington Street, Suite 3400  
Chicago, IL 60602  
Phone: 312-814-5600, 866-814-1113 (toll free, for non-emergencies)  
TTY: 888-261-2734  
Fax: 312-814-5479  
[www.illinois.gov/oeig](http://www.illinois.gov/oeig)

Illinois Sexual Harassment and Discrimination Helpline: 877-236-7703 (TTY users: 7-1-1)

## Reporting Confidentially and Anonymously

The Ethics and Compliance Officer, located within ECO, may receive complaints confidentially by emailing [NIUEthicsOfficer@niu.edu](mailto:NIUEthicsOfficer@niu.edu) or calling 815-753-5560.

If an individual requests to remain completely anonymous or that their name or details surrounding the incident not be disclosed during the investigation process, the Ethics and Compliance Officer will determine if confidentiality can be afforded. Where there is a likelihood of further harm to the complainant and/or the campus community, confidentiality may not be honored. The Ethics and Compliance Officer may also consult with appropriate university officials regarding the request for confidentiality.

When confidentiality of the complainant is maintained or the complainant's identity is unknown (i.e., anonymous), the university's ability to respond and take appropriate corrective action may be impeded. For example, if the identity of the complainant is not known, the respondent may not be able to provide a meaningful response to the alleged conduct. Nevertheless, the university will attempt to provide resources as provided herein, take steps to address the misconduct, remedy the effects, and prevent its recurrence.

## 9. Procedures after a Complaint is Filed

### Introduction

The goal of the complaint resolution process is to address, resolve, and eradicate behavior and conduct that violates this Policy. Most external agencies and courts of law encourage individuals who experience unlawful acts of discrimination, harassment, or retaliation to utilize internal procedures provided by the institution prior to filing an external claim. Therefore, all employees and students are strongly encouraged to utilize these internal complaint resolution procedures.

As an alternative to filing a complaint, an employee or student may also seek assistance through the complaint alternatives outlined in Section 14 of this Policy. **However, seeking assistance via these alternatives will not constitute the filing of a complaint or official notification to the university regarding issues that can be addressed by ECO, and thus an investigation into such matters may not occur and should not be an anticipated result.**

The procedures outlined below may proceed independent of any other grievance/complaint process provided for elsewhere by the university including, but not limited to, the non-union faculty and staff grievance, grade appeal process, collective bargaining/union grievance, student grievance, or sexual misconduct report or complaint.

### Initial Review of Complaint

Upon receipt of a complaint alleging a violation of this Policy, ECO will review the complaint to ensure ECO has jurisdiction over the alleged conduct. This determination may require obtaining additional information from the complainant, via email or an in-person or virtual meeting. Examples of when ECO might not have jurisdiction include, but are not limited to, if the complaint is filed past the time frame limitations set forth below, if the respondent is unaffiliated with the university, or if the complaint does not allege a violation of this Policy. ECO reserves the discretion to determine an appropriate university

venue for the complaint. Additionally, an investigation may be waived by ECO if the issues contained in the complaint are resolved by these or other university administrative processes, or if the desired outcome has been achieved.

### **Statement of Time Frame Limitations**

The time frame limitation is designed to encourage the timely filing of complaints and to ensure that evidence is reasonably available to afford a thorough investigation. To achieve this objective, an individual must file a complaint no later than 180 calendar days from the time that the individual knew or should have known of the alleged violation of this Policy. For conduct that is alleged to be a pattern of behavior, the complaint must be filed no later than 180 calendar days from the date in which the most recent act occurred. **Complaints filed after 180 calendar days will not be investigated unless rare and exigent circumstances warrant extension of the limitation.** The rare and exigent circumstance must be presented at the time that the complaint is filed.

### **Dismissal or Referral of Complaint**

If, after reviewing the complaint, it is determined that ECO does not have jurisdiction over the matter, the complainant will be notified that the complaint is being dismissed or referred to the appropriate university process. An explanation will be provided to the complainant as to why the complaint is being dismissed or where the complaint is being referred to.

There is no right to appeal the decision to dismiss or refer a complaint.

### **Withdrawing a Complaint**

The complainant has the right to submit a written request to withdraw the complaint at any time after it is filed. While a request for withdrawal will be given great deference, there may be occasions when the university has an obligation to proceed with a full investigation based on the nature of the allegations.

### **Complaint Resolution Process**

If ECO has jurisdiction over a complaint, an investigator will contact the complainant to schedule a private meeting. The purpose of the meeting is intended to provide the complainant with information about campus and community resources, gather information about the reported conduct and the individuals involved, provide an explanation of the process, identify supportive measures (when applicable), and discuss whether the complainant wishes to participate in a formal investigation, informal resolution, or not proceed with any action. If a complainant does not want to proceed with any action, ECO will determine whether the university has an obligation, based on the information provided, to proceed with an investigation because it is in the best interest of the university community.

### **Role of Investigators**

Investigators are neutral fact finders. As such, investigators do not function as advocates for any of the involved parties. Investigators will, however, inform individuals about other university offices and community resources where they may seek support or advocacy.

### **Presence of Support Persons**

The complainant and respondent may each have one support person present to provide support at any meeting with ECO. Support persons may act in an **advisory capacity only**. Support persons may not speak on behalf of the party in any proceeding but may consult with the party during the proceeding. The involvement of a support person cannot result in an undue delay of the proceeding. Additionally, the support person must comply with rules contained in this Policy and failure to comply or engagement in

behavior that is disruptive or harasses, intimidates, or abuses any party or witness may result in their prohibition in future involvement in the process. Any individual who is participating as a support person is expected to maintain the same level of privacy that is expressed throughout these procedures.

Individuals who may be a co-complainant, co-respondent, witness, hold a supervisory position over the complainant or respondent, or be in a position that may suggest a conflict of interest, may not serve as a support person.

A licensed attorney may be considered a support person. However, as this process is considered administrative in nature, neither party has the right to an attorney during any part of the complaint resolution process.

The investigator must be notified in advance, in writing, of the identity of any support person who will be present during an ECO meeting or proceeding, including the presence of a licensed attorney.

### **Union Representation**

If the complainant or respondent is a member of a union, they have the right to have union representation present throughout the complaint resolution process. Union representation may be in addition to a support person. The assigned investigator must be notified in advance, in writing, of the identity of the union representative who will be present.

### **Accommodations**

NIU is committed to providing accessible complaint resolution procedures. Any party or witness requiring an accommodation during the complaint resolution process due to a disability should contact the Ethics and Compliance Officer or investigator as soon as possible.

### **Informal Resolution**

In certain situations, a complaint may be resolved through an informal resolution. The purpose of an informal resolution is to achieve the complainant's desired outcomes, remedy the effects of the conduct, and prevent the conduct from reoccurring. An informal resolution can occur at any time during the complaint resolution process but must be initiated prior to ECO issuing a final determination related to the complaint.

Examples of terms of informal resolutions include, but are not limited to:

- Campus no contact order between the parties.
- One-on-one individualized training on issues related to the subject of the complaint.
- Supervisory training through a university department.
- Other trainings as warranted by the facts.
- Adjustments to workplace environments.

If an informal resolution is an appropriate option, ECO will discuss the terms with both parties. Both parties must agree to the terms of an informal resolution. The ultimate decision regarding whether an informal resolution is available and appropriate, including the terms, rests with the ECO.

Prior to the terms of an agreed upon informal resolution being satisfied, the complainant or respondent may elect to end an informal resolution and request a formal investigation. It is within ECO's discretion to determine whether a formal investigation will occur.

Failure by a party to abide by the terms of an agreed upon informal resolution may result in ECO initiating or continuing a formal investigation into the complaint and/or recommendations for correction action or discipline.

The university reserves the right to ensure that any resolution is designed to address and prevent problematic behavior. Some cases may not be appropriate for informal resolution.

## **Investigation**

### **Scope of Investigation**

ECO retains the discretion to determine the scope of any investigation or inquiry into a complaint.

### **Conducting an Investigation**

After the complainant is interviewed, the respondent will receive notice of the complaint and investigation. The notice shall contain the following information, if known: definition of alleged policy violation(s); date(s) of alleged policy violation(s); description of alleged conduct in violation of this Policy; and information regarding support persons and union representation (if applicable). The respondent will have the opportunity to respond to all allegations contained in the complaint that are being investigated. Witnesses may also be identified and interviewed about information related to the allegations within the complaint. Relevant nontestimonial evidence (e.g., emails, photographs, social media posts, etc.) will also be collected.

No audio or video recording of any kind is permitted during any meeting, interview, or proceeding with ECO.

ECO will conduct the investigation in a manner that is as thorough, impartial, and timely as possible. ECO investigators will not determine whether a violation of this Policy has or has not occurred until the investigation has concluded, including the completion of all interviews and evidence collection.

### **Participation in an Investigation**

Fairness to all individuals involved in an investigation is a priority. The university considers accusations of violations of university policy as serious events which can have a far-reaching effect upon the careers and lives of the individuals affected. The complainant, respondent, witnesses, and any other member of the university community should not take such accusations lightly.

Intentional false allegations, intentional misrepresentation of facts, failure/refusal to cooperate with an investigation, or the intentional breach of confidentiality is prohibited. Such conduct may result in corrective/disciplinary action up to and including suspension, expulsion, or termination. Additionally, attempts to influence an individual's participation in an investigation may also constitute an act of retaliation and could be treated as a separate and independent violation of this Policy. This includes, but is not limited to, persuading or pressuring an individual to not participate in an investigation, to not fully cooperate in an investigation, or to provide certain information during an investigation.

An employee is not required to inform their supervisor about the filing of a complaint, being considered a complainant, respondent, or witness in an investigation, or the existence of an investigation in general. However, ECO can inform a complainant's or respondent's supervisor or division or department head that an investigation is being conducted prior to its conclusion, if warranted by the facts of the case. For

example, if the respondent is placed on administrative leave pending investigation, the supervisor will be made aware for scheduling purposes.

### **Administrative Action Pending Investigation**

The university reserves the right to take administrative action deemed necessary to protect the rights and safety of the complainant, respondent, witnesses, and campus community pending completion of an investigation. Such measures include, but are not limited to: changes to academic, living, dining, transportation, and working situations; obtaining and enforcing campus no contact orders; honoring an order of protection or no contact order issued by a court of law; and interim suspension/administrative paid leave from campus.

If an employee is conducting research or administering a grant as a principal investigator (“PI”) or co-PI, the university may be required to notify the sponsoring/funding agency, based on the agency’s terms and conditions, if that employee is placed on administrative leave or subject to corrective action that has been taken as a result of a violation of this Policy.

### **Standard of Proof**

An investigation will result in a determination as to whether it is “more likely than not” (preponderance of the evidence) that a policy violation did or did not occur. The conduct alleged to have violated this Policy shall be evaluated from the perspective of a similarly situated, reasonable person when considering the totality of the circumstances involved in the matter.

### **Suspension of an Investigation**

In some circumstances, an investigation may be temporarily placed on hold, such as when the complainant, the respondent, or evidence is temporarily unavailable. When an investigation is temporarily placed on hold, the involved parties will be notified in writing. In certain circumstances, the reason for the suspension may not be disclosed to the involved parties, such as an employee being on approved leave under the Family Medical Leave Act (“FMLA”).

### **Conclusion of an Investigation**

ECO retains the discretion to determine any policy violation findings or lack thereof, recommendations, determinations, and resolution procedures as warranted by the evidence and considered by the assigned investigator.

Both parties will receive a written report upon conclusion of an investigation. The written report will summarize factual information obtained during the investigation and provide the official findings of the investigation, including rationale and whether recommendations for resolution are appropriate. While the full content of the investigation will include witness testimony or other documentation, and a list of recommendations, the complainant and respondent will not have access to this information absent legally required disclosure. Witnesses, support persons, and other affected parties will not receive a written report of the investigation unless it is deemed necessary to protect university interests.

ECO reserves the right to provide a summary of the findings and recommendations to the appropriate university official(s). This notification will be restricted to department or division heads in an identifiable line of supervisory or administrative responsibility in relation to the parties involved in the complaint. Individuals external to the investigation and university will not receive any notification or information

regarding the complaint or investigation unless a request is made by legal subpoena, directed by a court of law, or otherwise required by law, executive order, or regulation.

There will not be a finding of responsibility if there is not enough evidence to conclude that a policy violation has occurred. However, despite a lack of a finding, ECO may provide recommendations to the department or division head related to information revealed during the course of the investigation that may be of concern.

## 10. Retaliation Statement

The university does not condone or tolerate acts of retaliation against any individual who has, in good faith, asserted their rights protected by this Policy. Any individual, who in good faith, filed a report or complaint, testified, assisted, participated, or refused to participate in the procedures outlined herein alleging that a violation of this Policy has occurred is protected from retaliation. Retaliation is prohibited by this Policy, as well as the Illinois State Officials and Employees Ethics Act, the Illinois Human Rights Act, and the Illinois Whistleblower Act.

Retaliation may occur even if no responsibility is found for the underlying complaint or investigation. Retaliation should be reported immediately to ECO using the procedures outlined herein or by emailing [ECO@niu.edu](mailto:ECO@niu.edu).

## 11. Appeals

The official findings of the investigation may be appealed by either party by submitting a written request of appeal to the Executive Vice President and Provost, or designee, within five business days after the date of the written report regarding the investigation. Appeals may be submitted online at [go.niu.edu/appeals](http://go.niu.edu/appeals).

Appeals may be made *only* on the following grounds:

- A material deviation from these procedures affected the outcome of the case.
- New and relevant information is available that was not available, with reasonable diligence and effort, at the time of the investigation that could reasonably affect the investigation finding(s).
- The outcome was significantly contrary, unsupported, and unreasonable to the weight of the evidence presented.

The Executive Vice President and Provost, or designee, will render a decision about the appeal within seven business days after the date the written appeal is received. If the appeal is granted, the non-appealing party will be notified of the outcome.

The Executive Vice President and Provost, or designee, may extend the time to render an appeal decision when unusual circumstances arise. The appealing party will be informed of the extension of time along with the date in which the appeal decision will be rendered. The non-appealing party may be informed whether an extension has been granted.



## **12. Corrective Action or Sanctions**

If an individual is found responsible for violating this Policy, corrective action (including sanctions) will be recommended by ECO and implemented by the appropriate division or department head to ensure that the conduct resulting in a policy violation is addressed and eradicated.

Corrective action against employees shall be commensurate with the severity of the policy violation and consistent with the university's applicable personnel due process and grievance procedures, and standards set forth in the university constitution and applicable collective bargaining agreements. Corrective action may include, but is not limited to, a counseling statement, a letter of warning, oral reprimand, written reprimand, referral to a required training program, suspension from employment with or without pay or termination from employment.

Corrective action or sanctions may be imposed and enforced by college deans when the respondent is a faculty member. When the respondent is supportive professional staff, operating staff/civil service, extra help employee, or student employee, corrective action or sanctions shall be imposed by the applicable division vice president or designee.

Vendors, contractors, and third parties who violate this Policy may receive sanctions ranging from a written warning to banishment from university property, activities, and/or programs, including the termination of any business contract with the university.

## **13. Record Keeping**

ECO is required to maintain records of all party and witness interviews, facts, evidence, outcomes, and resolutions of a complaint or investigation. Records of investigations will not be maintained in personnel or student files unless formal findings, corrective action, or sanctions are imposed and approved by the appropriate university official. In this instance, the employee or student will be informed that this information has become part of their permanent employment or student record. All original investigative records and notes will be maintained by ECO in accordance with university record retention schedules.

## **14. Alternatives to Filing a Formal Complaint**

Seeking assistance via these alternatives will not constitute the filing of a complaint or official notification to the university regarding issues that can be addressed by ECO and these procedures. Therefore, when utilizing any of the alternatives to filing a formal complaint, an investigation into such matters should not be an anticipated result.

### **Confidential Resources**

Any employee or student may seek confidential resources through designated university departments or individuals. The information discussed with a confidential resource will be kept in confidence and will not be shared with ECO except in cases where reporting is legally required.

Office of the Ombudsperson (for employees and students)  
Holmes Student Center, 6<sup>th</sup> Floor  
815-753-1414  
ombuds@niu.edu

[niu.edu/ombuds](http://niu.edu/ombuds)

Counseling and Consultation Services (for students)  
Campus Life Building 200  
815-753-1206  
[niu.edu/counseling](http://niu.edu/counseling)

Employee Assistance Program (for employees)  
Holmes Student Center 709  
815-753-9191  
[EmployeeAssistance@niu.edu](mailto:EmployeeAssistance@niu.edu)  
[go.niu.edu/eap](http://go.niu.edu/eap)

## Mediation

In some instances, both parties may agree to participate in the mediation process. Mediation is a voluntary process that provides a confidential way for individuals to discuss their issues and concerns with each other directly, facilitated by a neutral, trained mediator. The mediator does not decide who is right or wrong and cannot issue a final decision or conclusion regarding the matter or recommend corrective action. Instead, the mediator helps the parties identify their own solutions to the issues and concerns being discussed in a nonconfrontational and nonintrusive setting. The Employee Assistance Program facilitates mediation requests. Some cases may not be appropriate for mediation.

## 15. Definitions

For the purpose of this Policy, the following definitions apply:

**Business Day:** Days the university is open for business, excluding Saturday, Sunday, university-observed holidays, and administrative closures. Anytime the term “day” is used in these procedures, it is intended to mean business day.

**Calendar Day:** The period of time between midnight and 11:59 p.m., inclusive of weekends and holidays.

**Complainant:** The alleged victim/harmed individual; a person who has allegedly been subjected to any of the conduct prohibited by this Policy; and/or a person who files a formal complaint.

**Contractors:** A person or business who has a contract with the university to provide goods and/or perform specific services. This includes employees, subcontractors, and independent contractors working for or with contractors, and individuals performing services through a grant awarded to the university.

**Employee:** A person who receives compensation from NIU for services performed and/or provides volunteer work for the university. This includes, but is not limited to, administrators, faculty, instructors, civil service staff, supportive professional staff, extra help staff, student employees, graduate/teaching/research assistants, and volunteers.

**Respondent:** The alleged offender/accused individual; a person alleged to have engaged in any of the conduct prohibited by this Policy.

**Student:** A person admitted to NIU and/or enrolled in any course at NIU (for credit or not for credit), including, but not limited to, undergraduate students, graduate students, and students-at-large. This includes those students in continuing status for the next semester or summer session, and students from another university who are attending classes at NIU for course credit.

**Third parties:** Includes visitors, guests, and affiliates of the university.

**Vendors:** A person or business who sells good or services to the university. This includes employees of vendors.

## **16. Related Policies and Procedures**

[Affirmative Action University Statement](#)

[Report a Bias Incident](#)

[Consensual Relationships Between Faculty, Staff, and Students Policy](#)

[Equal Opportunity Statement](#)

[Ethics and Accountability in the Workplace Policy](#)

[Sexual Misconduct Policy and Complaint Procedures](#)

[Student Code of Conduct](#)