DISCRIMINATION AND HARASSMENT GRIEVANCE PROCEDURES

Supports Policy: PS 04, Anti-Discrimination and Harassment Policy
Applies to: Students, faculty, staff, 3rd party vendors, and campus guests

PURPOSE

The purpose of these procedures is to provide a prompt and equitable resolution for complaints or reports of discrimination based upon race, color, religion, national origin, creed, service in the uniformed services (as defined in state and federal law), veteran status, sex, age, political ideas, marital or family status, pregnancy, physical or mental disability, genetic information, gender identity, gender expression, or sexual orientation. Any person believing that they have been subjected to discrimination or harassment on any of these bases may file a complaint or report with the University. These procedures are the exclusive means of addressing complaints or reports of alleged discrimination or harassment, including conduct that violates Bellevue University’s Anti-Discrimination and Harassment Policy, PS 04 (hereinafter referred to as “policy violations”). The procedures also address complaints or reports of retaliation against those who have opposed practices forbidden under the policy, those who have filed complaints (“complainant”) or reports (“reporter”) under the policy, and those who have testified or otherwise participated in enforcement of the policy.

All employees involved in implementing these procedures shall discharge their obligations fairly and impartially. If an individual determines that he or she cannot apply these procedures fairly and impartially because of the identity of a complainant, respondent, or witness, or due to any other conflict of interest, another appropriate individual will be designated to fulfill his or her role.

COMPLAINTS AND REPORTING

University Complaints and Reporting
Complaints and third-party reports of discrimination, including policy violations, should be made to the Title IX Coordinator (“TC”). The TC and Investigator (“IN”) are trained to help you find the resources you might need, to explain all reporting options, and to respond appropriately to conduct of concern. All instances of retaliation should be reported and will be addressed in the same manner. The contact information for the TC is listed below.

Title IX Coordinator
Bellevue University
1000 Galvin Road South
Bellevue, NE 68005
402-557-5299
1-800-7567920 ext. 5575299
TitleIX@bellevue.edu
Under Bellevue’s Anti-Discrimination and Harassment Policy, all University employees have an
obligation to report discrimination and harassment (unless otherwise specified in the Policy).
Complaints and reports should be made as soon as possible after an incident. Failure to make a
timely report could inhibit the University’s ability to investigate and respond to the conduct
complaint of. The TC coordinates and tracks all complaints and reports under this procedure.

There are several avenues available for submitting a complaint or report:
- Leave a private voice message for the Title IX Coordinator;
- File a complaint or report on the form contained here: https://bellevue-
- Report to another trusted University official (e.g., Professor, Coach, Academic Advisor) who
  will provide information to the Title IX Coordinator as required under the policy.

If there is a complaint about the TC and/or IN staff members, or if the TC and/or IN staff has a
complaint, that complaint should be filed with the Dean of Students or Sr. Director of Human
Resources. The Dean or Sr. Director will appoint another trained individual to take the place of the
TC and/or IN staff for purposes of the complaint.

Criminal Reporting and Preserving Evidence
Please remember that if someone is in immediate danger or needs immediate medical attention,
the first place to report is 911. You may also report to the Campus Safety Department (402-557-
5000), and/or to the Bellevue Police Department (402-293-3100). The University recommends that
criminal reports be made to law enforcement, even if it is uncertain whether the particular conduct
is a crime. Calling local law enforcement can help you obtain emergency and nonemergency
medical care, get immediate law enforcement response for your protection, understand how to
provide assistance in a situation that may escalate to more severe criminal behavior, arrange a
meeting with victim advocate services, find counseling and support, initiate a criminal investigation,
and answer questions about the criminal process. However, a victim may decline to notify such
authorities.

If you are the victim of sexual assault, domestic violence, or dating violence, do everything possible
to preserve evidence by making certain that the crime scene is not disturbed. Preservation of
evidence may be necessary for proof of the crime or in obtaining a protection order. Victims of
sexual violence, domestic violence, or dating violence should not bathe, urinate, douche, brush
teeth, or drink liquids until after they are examined and, if necessary, a rape examination is
completed. Clothes should not be changed. When necessary, seek immediate medical attention at
an area hospital and take a full change of clothing, including shoes, for use after a medical
examination.

It is also important to take steps to preserve evidence in cases of stalking, to the extent such
evidence exists. In cases of stalking, evidence is more likely to be in the form of letters, emails, text
messages, etc. rather than evidence of physical contact and violence.

A complainant who makes a claim related to sexual assault, domestic violence, dating violence, or
stalking will be given a copy of the document titled “Explanation of Rights and Options After Filing a
Complaint of Sexual Violence, Domestic Violence, Dating Violence, or Stalking.”
Confidentiality of Complaints and Reports

Parties in these processes, including the complainant, the individual accused of a policy violation ("respondent"), and witnesses, have privacy rights and reasonable expectations of confidentiality in the investigation of matters subject to this procedure. In addition, the integrity of the process depends on ensuring reasonable expectations of confidentiality. The TC and/or IN staff members will keep confidential the complaint, report, witness statements, and any other information provided by the complainant, respondent, or witness and will disclose this information only to the complainant, respondent, or witnesses, as necessary to give fair notice of the allegations and to conduct the investigation; to law enforcement consistent with state and federal law; to other University officials as necessary for coordinating interim measures or for health, welfare and safety reasons, and to government agencies who review the University’s compliance with federal laws. The investigation report and any written decision from the TC and IN will be disclosed only to the complainant, respondent, Dean of Students or Sr. Director of Human Resources and if necessary, Director of Campus Safety. These University designees have the same strict obligations to keep all information they learn confidential, subject to the limited exception when necessary to protect health, welfare or safety. Information about complaints and reports, absent personally identifiable information, may be reported to University officials, including the Campus Safety Department, and external entities for statistical and analysis purposes pursuant to federal and state law and University policy.

In the event a complainant requests confidentiality, the University will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality. If a complainant insists that his or her name not be disclosed to the alleged perpetrator, the University’s ability to respond may be limited. The University reserves the right to initiate an investigation despite a complainant’s request for confidentiality in limited circumstances involving serious or repeated conduct or where the alleged perpetrator may pose a continuing threat to the University Community.

The Title IX Coordinator is the person responsible for evaluating requests for confidentiality.

Reporter or Complainant Requests No Investigation

If a reporter or complainant requests that an investigation not be conducted, the TC will consider the reasons for the request, including concerns about continued safety of the person reportedly harmed and members of the campus community. The TC must also balance considerations about the continued health and safety of members of the community against a reporter’s or complainant’s complainant that an investigation not be conducted, the TC will consider the complainant does not want to have a report investigated, but the TC has concerns that not taking formal or informal action might endanger the health or safety of members of the campus community, the TC will initiate confidential consultation with appropriate individuals to analyze the situation and assist in determining appropriate measures to take. Consultation may occur with the Dean of Students, Campus Safety Director, psychological health professional, Sr. Director of Human Resources, and University Legal Counsel.

Anonymous and Third Party Reporting

The University accepts anonymous and third-party reports of conduct alleged to violate this policy and will follow up on such reports. The reporter is encouraged to provide as much detailed information as possible to allow the TC and/or IN staff members to investigate and respond as appropriate. The TC and/or IN staff may be limited in the ability to investigate an anonymous
report unless sufficient information is furnished to enable the TC and/or IN staff to conduct a meaningful and fair investigation. University employees may not make anonymous reports when they are made aware that discrimination or harassment has occurred.

Bad Faith Complaints
While the University encourages all good faith complaints of discrimination and harassment, the University has the responsibility to balance the rights of all parties. Therefore, if the University’s investigation reveals that a complaint was knowingly false, the complaint will be dismissed and the person who filed the knowingly false complaint may be subject to discipline.

Role of the TC and IN
The TC is charged with coordinating the University’s compliance with federal Title IX regulations. The TC and/or IN is not an advocate for either the complainant or the respondent. The TC and/or IN will explain to both parties the process outlined below and the confidentiality provisions as outlined above. Where appropriate, the IN will provide to both parties information about options for obtaining medical and counseling services, information about making a criminal report, information about receiving advocacy services, and information about other helpful campus and community resources. The TC will offer to coordinate with other campus officials, when appropriate, to implement interim remedial measures such as no-contact orders, rearrangement of living arrangements, or academic accommodations. The IN will describe the process of a fair and impartial investigation. The IN will explain to both parties their rights to have a person of support or advisor with them during all stages of the process. The support person or advisor does not serve as an advocate on behalf of the complainant or respondent, may not be actively involved in any proceedings, and he or she must agree to maintain the confidentiality of the process. The University reserves the rights to remove or dismiss a support person or advisor who becomes disruptive or who does not abide by the limitations noted in the previous sentence.

The IN will also explain to parties and witnesses that retaliation for reporting alleged violations of the policy, or participating in an investigation of an alleged violation, is strictly prohibited and that any retaliation should be immediately reported and will be promptly addressed.

INVESTIGATION

Interim Measures and Protective Actions
The University may take interim measures to assist or protect the parties at any point during the grievance process, as necessary. This may include assisting and allowing the complainant to change his or her academic, transportation, work, or living situation if options to do so are reasonably available and upon request of the complainant. Such changes may be available regardless of whether the victim chooses to report the crime to campus police or local law enforcement. Requests to change an academic, transportation, work, or living situation, or a request for the University to take any other protective measure, should be made to the Title IX Coordinator.

Examples of such measures for a student complainant may include issuing a no-contact directive; referring individuals for counseling; placing an employee on administrative leave; or arranging for changes for changes in employee assignments, class schedules, off-campus living arrangements, class requirements, and/or testing schedules as needed.

If a complainant has obtained a temporary restraining order or other no contact order against the alleged perpetrator from a criminal, civil, or tribal court, the complainant should provide such
information to the Title IX Coordinator. The University will take all reasonable and legal action to implement the order.

Timing of the Investigation
The University will endeavor to conclude its investigation and resolution of the complaint within sixty (60) calendar days of receiving it or, if additional time is required, keep all parties informed of the estimated timeframe for resolution and the reasons for the extension. Both the complainant and the respondent will be given periodic updates regarding the status of the investigation. If either the complainant or respondent needs additional time to prepare or to gather their witnesses or information, they shall notify the IN in writing explaining how much additional time is needed and why it is needed. The IN shall respond to any such request within three (3) business days.

Pending Criminal Investigation
Some complaints under Anti-Discrimination and Harassment Policy may also constitute criminal conduct, especially as it relates to sexual assault, domestic violence, dating violence, or stalking. In such instances, the complainant is also encouraged to file a report with the appropriate law enforcement authorities and, if requested, the University will assist the complainant in doing so. The pendency of a criminal investigation, however, does not relieve the University of its responsibilities under Title IX. Therefore, to the extent doing so does not interfere with any criminal investigation, the University will proceed with its own investigation and resolution of the complaint.

Rights of the Parties
During the investigation and resolution of a complaint, the complainant and respondent shall have equal rights. They include:
- Equal opportunity to identify and have considered witnesses and other relevant evidence.
- Similar and timely access to all information considered by the IN.
- Equal opportunity to review any statements or evidence provided by the other party.
- Equal access to review and comment upon any information independently developed by the IN.

Investigation and Resolution Procedures
Step 1: The IN will discuss concerns with complainant and the respondent as appropriate, including providing information about the policy and procedures and other helpful resources. The IN, in consultation with the TC, will also consider whether immediate or interim actions or involvement of other University offices is appropriate. The IN will determine whether the office has jurisdiction to investigate the matter. The IN only has jurisdiction to investigate complaints alleging discrimination, harassment, sexual misconduct, domestic violence, dating violence, stalking, and retaliation.

- Option 1: If the IN determines that there is no jurisdiction and that these procedures appropriate for resolution of the complaint, the IN will inform the Complainant and reclassify the incident. The complaint will then be addressed according to the University Complaint Policy, PS 1977.

- Option 2: If the IN determines that there is jurisdiction and that these procedures apply to the complaint, the IN will proceed to Step 2.
Step 2: The IN conducts or oversees the conducting of a fair and impartial investigation of the alleged policy violation and proceeds to Step 3.

- Only a trained investigator will conduct an investigation. All parties involved in implementing the procedures will receive annual training on this policy and procedures and related issues.
- The IN will ensure that the investigation is commenced as soon as practicable, but not later than seven (7) business days after the complaint is made.
- The purpose of the investigation is to determine whether it is more likely than not that the alleged behavior occurred and, if so, whether it was a violation of the Anti-Discrimination and Harassment Policy.
- During the course of the investigation, the IN may receive counsel from University administrators, the University’s attorneys, or other parties as needed.
- During the investigation:
  - The complainant will have the opportunity to describe his or her allegations and present supporting witnesses or other evidence.
  - The respondent will have the opportunity to respond to the allegations and present supporting witnesses or other evidence.
  - The IN will review the statements and evidence presented and may, depending on the circumstances, interview others with relevant knowledge, review documentary materials, and take any other appropriate action to gather and consider information relevant to the complaint.
  - All parties and witnesses involved are expected to cooperate and provide complete and truthful information.

Step 3: At the conclusion of the investigation, the IN determines whether there is a preponderance of the evidence to believe that an individual engaged in a violation of the University’s Anti-Discrimination and Harassment Policy. The IN will prepare a written report and the report will explain the scope of the investigation, identify findings of fact, and state whether any allegations were found to be substantiated by a preponderance of the evidence.

- Option 1: If the IN finds a preponderance of the evidence of a policy violation does not exist, the matter is documented and closed; in this case the Complainant may appeal the finding to the appropriate University Official based upon the respondent’s status. If the respondent is a student, the designee will be the Dean of Students. If the respondent is an employee, the designee will be the Sr. Director of Human Resources.

- Option 2: If the IN finds that a preponderance of the evidence of a policy violation exists, the IN’s written report will include recommendations for steps to take to prevent recurrence of any such violation, and as appropriate, remedies for the Complainant. The IN will provide the written report and recommendations to the appropriate designee for a determination of findings and appropriate sanctions, if necessary. In the case of student Respondents, the designee will be the Dean of Students. In the case of employee respondents, the designee will be the Sr. Director of Human Resources. The designee, in cooperation with appropriate management, will have the authority to impose sanctions in accordance with University policies and procedures. The Dean or Sr. Director must inform the TC of the ultimate sanctions imposed upon a Respondent. If the Respondent does not
contest the finding, the Respondent will be required to sign the designee's finding. If the Respondent contests the finding, he/she may follow the appeal process outlined below. The TC will inform the complainant of the sanctions as permitted by applicable Title IX and privacy laws. The complainant may also appeal if he or she believes the sanctions imposed are insufficient.

**APPEAL PROCESS**

**Grounds for Appeal**
The complainant or respondent may appeal the determination of a complaint only on the following grounds:

- There is a substantial likelihood that newly discovered information, not available at the time evidence was presented to the IN, would result in a different decision;
- There was a procedural error significant enough to call the outcome into question;
- There was a clear error in factual findings;
- Bias or prejudice on the part of the IN; or
- The punishment or the corrective action imposed is disproportionate to the offense.

**Filing an Appeal**
A request to appeal University sanctions must be filed in writing within five (5) business days of the receipt of the TC's notification of the Dean of Student's or Sr. Director of Human Resources' decision, unless good cause can be shown for an extension of time. The request must be filed with the TC in writing and must describe the appellants' desired outcome including specific reasoning for the appeal. The appeal request should contain the following information:

- Name of the complainant;
- Name of the respondent;
- A statement of the determination of the complaint, including corrective action if any;
- A detailed statement of the basis for the appeal including the specific facts, circumstances, and argument in support of it and
- Requested action, if any.

**Appellate Officer**
As soon as practicable, the TC will provide the non-appealing party and the appropriate University Official (“Appellate Officer”), based on the status of the Respondent, with a copy of the written appeal. The Appellate Officer will be the Vice President for Community and Student Affairs (VP, Community and Student Affairs) if the respondent is a student, or the Vice President for Academic Affairs (VPAA) if the respondent is an employee or a third party.

The appealing party may request a meeting with the Appellate Officer, but the decision to grant a meeting is within the Appellate Officer's discretion. If a meeting is granted, then the other party will be granted a similar opportunity.

**Appeal Decision**
Within ten (10) business days of receiving the appeal, the Appellate Officer reviews the appeal, findings and sanctions, if applicable, imposed by the Dean of Students or the Sr. Director of Human Resources. The Appellate Officer may approve, overturn, or modify the findings and/or sanctions.
The Appellate Officer's decision is final. The Appellate Officer shall issue a short and plain, written statement of the resolution of the appeal, including any changes made to the previous determination made at the investigation stage of the process. The Appellate Officer's written statement shall be provided to the complainant, respondent, and the TC within three (3) business days of the final resolution.

**DOCUMENTATION**

Throughout all stages of the investigation, resolution, and appeal, the IN, the TC and the Appellate Officer as the case may be, are responsible for maintaining documentation of the investigation and appeal, including documentation of all proceedings conducted under these complaint resolution procedures, which may include written findings of fact, transcripts, and audio recordings.

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**Supports Policy:** PS 04 - Bellevue University Anti-Discrimination and Harassment Policy

**Supporting Documentation:** Title IX, Clery Act, Campus SaVE Act, Violence Against Women Act
Bellevue University Student Code of Conduct
Bellevue University Employee Handbook

**Keywords:** Title IX, Sexual Discrimination, Sexual Misconduct, Sexual Assault, Discrimination, Harassment, Retaliation, Consensual, Hostile Environment, Procedure, Investigation, Appeal

**Responsible Office:** Title IX Office

**Contact Information:** Title IX Coordinator
Bellevue University
1000 Galvin Road South
Bellevue, Nebraska 68005
402-557-7299
TitleIX@bellevue.edu

**Approved by:** Mary Hawkins

**Effective Date:** December 1, 2014

**Review Cycle and Dates:** These written procedures are new.

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APPROVED:

Mary Hawkins, Bellevue University President

Date: Dec. 1, 2014