Grievance Process for Formal Complaints

1. Formal Complaint

A “Formal Complaint” is the first step of a grievance process.

a. A Complainant may file a “Formal Complaint” in writing against a Respondent requesting that the University investigate an allegation of sexual misconduct.
b. A respondent is presumed not responsible for the alleged conduct unless a determination regarding responsibility by a preponderance of the evidence is made at the conclusion of the grievance process by the decision maker(s).
c. “Formal Complaint” submitted to the Title IX Coordinator (TIXC).

2. Preliminary Review

TIXC reviews complaint/allegations to determine if:

a. Conduct constitutes sexual harassment as defined by the Sexual Misconduct Policy & Procedures,
b. Conduct occurred in University’s education or activities, **AND**
c. Conduct occurred against a person in the United States.

3. Formal Complaint Dismissal

A “Formal Complaint” will be “Dismissed” if:

a. The conduct would not constitute sexual harassment as defined by the Sexual Misconduct Policy and Procedures, even if proved.
b. The conduct did not occur in the University’s education program or activity.
c. The conduct did not occur against a person in the United States.

The TIXC sends “Notice of Dismissal” to Complainant and Respondent within seven days of their decision.

4. Appeal of the Dismissal of a Formal Complaint

a. Must be in writing and delivered to the Appeals Officer within seven University Days of the delivery of the “Notice of Dismissal”.
b. If either part submits an appeal, the other party and the TIXC will be provided with a copy of the appeal.
c. The written determination will be provided simultaneously to Complainant, Respondent, and TIXC.

5. Investigation Process

If TIXC determines that conduct constitute sexual harassment as defined by the Sexual Misconduct Policy and Procedures, conduct occurred in the University’s education program or activity and conduct occurred against a person in the United States, then:

a. “Notice of Investigation” is sent to Complainant and Respondent
b. Investigation commences
    1. Meeting Notice for interviews is sent at least five University Days prior to meeting.
    2. Parties may be accompanied to any related meeting or proceeding by up to two advisors of their choice, who may be, but are not required to be, attorneys.

3. Review of the Evidence: both parties will be given the opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a “Formal Complaint”.
4. “Draft Investigation Report” is generated and sent to Complainant and Respondent for review. Both parties will have the right to review.
5. “Final Investigation Report” is generated and sent to Complainant and Respondent for review and written response at least ten days prior to the Hearing. Both parties will have the right to review each other’s responses, and the responses will be provided at the hearing. In addition, report is sent to the TIXC.

Though the University strives to resolve all cases in a prompt and timely manner, the timeline varies based on the circumstances of the case.

6. Dismissal During the Investigation

The University may dismiss the “Formal Complaint” or any allegations therein, if at any time during the investigation or hearing:

a. A Complainant notifies the TIXC in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein.
b. The Respondent is no longer enrolled or employes by the University, OR
c. Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the “Formal Complaint” OR allegations therein.
d. TIXC send “Notice of Dismissal” to Complainant and Respondent.

7. Appeals of a Dismissal During the Investigation

a. Must be in writing and delivered to the Appeals Officer within seven University Days of the delivery of the “Notice of Dismissal”.
b. If either party submits an appeal, the other party and the TIXC will be provided with a copy of the appeal.
c. Written determination will be provided simultaneously to the Complainant, Respondent and TIXC.

8. Hearing

University will conduct a hearing to determine whether the Respondent is responsible for violating the Sexual Misconduct Policy.

a. Pre-Hearing Conference will be held at least two University days prior to the scheduled hearing.
b. Hearing Conference: The “Hearing Board”
    1. Subset of the University Conduct Board.
    2. Composed of an odd number of members.
    3. Determines whether the Respondent is responsible for violating the Sexual Misconduct policy.

The University will strive to conduct a hearing within thirty University Days from the issuance of the “Investigative Report”.

9. Appeals of Hearing Board Determination After Formal Hearing

a. Must be in writing and delivered to the Appeals Officer within seven University Days of the delivery of the Notice of Dismissal.
b. If either party submits and appeal, the other party, the University Presenter (investigator) and the TIXC will be provided a copy of the appeal.

c. The written determination will be provided simultaneously to the Complainant, Respondent, University Presenter, and TIXC.
d. Decision is Final.

The content of this document is for basic information purposes only. The Content is not intended to be a substitute for the University of Nebraska Employee Sexual Misconduct Procedures and the Student Sexual Misconduct Procedures. If there are any discrepancies, omissions or updates the University of Nebraska Employee Sexual Misconduct Procedures and the Student Sexual Misconduct Procedures takes precedence.