

FAYETTEVILLE STATE UNIVERSITY

TITLE IX COMPLAINTS

Authority:	Issued by the Chancellor. Changes or exceptions to administrative policies issued by the Chancellor may only be made by the Chancellor.
Category:	University-Wide
Applies to:	●Administrators ●Faculty ●Staff ●Students
History:	Approved – August 8, 2012
Related Policies/Laws:	<ul style="list-style-type: none">● <i>Title IX</i>● <i>Sexual Harassment</i>● <i>Sexual Misconduct</i>● <i>Title IX, Education Amendments of 1972</i> [Title 20 U.S.C. Sections 1681-1688]
Contact for Information:	Division of Academic Affairs - (910) 672-2217 Division of Student Affairs - (910) 672-1486 Office of Human Resources - (910) 672-2889 Department of Intercollegiate Athletics - (910) 672-1670 Office of Legal Affairs (910) 672-1145

I. INTRODUCTION

Title IX of the Education Amendments of 1972 (Title IX) prohibits educational institutions from discriminating on the basis of sex in educational programs or activities. Title IX also requires such institutions to adopt and publish grievance procedures to resolve student and employee complaints alleging discrimination prohibited by Title IX. To ensure compliance with Title IX and in an effort to ensure that employees and students receive prompt and equitable resolution of complaints involving sex discrimination,

Fayetteville State University (University) has implemented policies and procedures that address complaints of sex discrimination. This Policy outlines the processes involved in filing a complaint based on conduct of a non-sexual nature and also provides a summary of the University's *Sexual Harassment* policy and its *Sexual Misconduct* policy.

II. COMPLAINT PROCEDURES FOR CONDUCT OF A NON-SEXUAL NATURE

The University is committed to equality of educational opportunity and employment and does not discriminate based upon sex in its programs and activities. Thus, these complaint procedures are to be used to address complaints made by students or employees who believe they have been discriminated against because of their sex in matters involving issues of a non-sexual nature. For employees, such may include, but not be limited to issues involving recruitment and hiring, rate of compensation, benefits, and training. For students, such may include, but not be limited to issues involving academic and academic support programs, financial aid, housing and athletics. A student or employee who believes that s/he has been discriminated against based on sex should

consult with a Title IX Coordinator and/or follow the procedures outlined below. (See the University's *Title IX* policy for a listing of Title IX Coordinators.) If an issue involves an alleged act of sexual misconduct or sexual harassment, reference to that particular policy should be made to initiate a complaint. When unsure which policy applies, the student or employee should contact a Title IX Coordinator for assistance.

Individuals are encouraged to utilize these procedures freely and without the fear of retaliation. The University will not tolerate retaliation against any individual who files a complaint under Title IX or who participates in an investigation.

A. Informal Resolution

The informal resolution process provides an alternative method of addressing complaints of a non-sexual nature. Complaints that are resolved informally are not investigated to the same degree as formal complaints, although the complainant and the subject of the complaint may be interviewed.

If appropriate, the student or employee ("Complainant") may discuss the complaint directly with the individual against whom the complaint is made (Subject). If the alleged discrimination involves a department or unit rather than an individual, the Complainant may discuss the complaint with the head of that department/unit. The discussion should occur within ten (10) calendar days of the alleged discriminatory act or as soon as possible.

If the Complainant prefers not to discuss the complaint directly with the Subject or the Department/Unit Head but wants to attempt an informal resolution, the Complainant shall provide a written statement to the appropriate Title IX Coordinator within thirty (30) calendar days of the alleged discriminatory act. The Title IX Coordinator will meet individually with the Complainant, the individual who is the subject of the complaint ("Subject") and any other parties that the Title IX Coordinator deems appropriate in an attempt to come to an informal resolution.

If the Complainant decides that the formal review is preferable, at any time during the informal review process, the Complainant may terminate the informal review process and begin the formal review process.

B. Formal Resolution

1. Filing a Complaint

An EPA employee or student interested in filing a formal complaint alleging sex discrimination shall provide the written complaint to a Title IX Coordinator. (See the University's *Title IX* policy for a listing of Title IX Coordinators.) The complaining party should make every effort to submit the written complaint within thirty (30) calendar days of the alleged conduct.

2. Investigation

Once a complaint is received, the Title IX Coordinator assigned to the employee's respective school, college, unit or division shall conduct a formal

investigation. The Title IX Coordinator shall be responsible for reviewing and investigating written complaints received in a prompt and impartial manner. In so doing, the Title IX Coordinator shall be authorized to interview the Complainant, the accused, and any witnesses in order to determine if sexual harassment has occurred and the culpability of the accused. Meetings with the parties to the complaint shall be conducted individually and shall not take the form of a hearing. The Title IX Coordinator shall keep an accurate record of all meetings and interviews.

The Title IX Coordinator shall seek to have the complaint resolved within sixty (60) calendar days from the date the complaint was received.

3. Report of Findings

Once the investigation is concluded, the Title IX Coordinator shall draft a report consisting of the following:

- Name and sex of the Complainant;
- A description of the allegation, including dates, times and individuals involved;
- The date the complaint or other report was made;
- The dates on which interviews were conducted;
- The names and sex of all known witnesses to the alleged incident;
- The date on which any relevant documentary evidence was obtained;
- Any written statements;
- Any interim steps taken with respect to the Complainant and the respondent;
- A summary of the findings and a determination as to whether or not the complaint rises to the level of sex discrimination.

Prior to issuing the final report, the Title IX Coordinator shall consult with the Chief Title IX Coordinator and the Office of Legal Affairs. After such consultation, the Title IX Coordinator shall provide written notice to both parties of the results of the investigation.

A summary report shall be issued to the Complainant and the Subject. If the complaint is against a University unit/department, the report shall be provided to the respective Vice Chancellor. If the complaint is against a University employee or student, the report shall be provided to the employee's unit head or the Dean of Students respectively.

4. Disciplinary Action

After reviewing the final report, the Vice Chancellor, supervisor or Dean of Students shall determine whether disciplinary action will be considered. Any consideration of disciplinary action shall be determined on the basis of the facts of each case as well as any University record indicating previous wrong doing by the Subject. Any disciplinary action taken shall be in accordance with the University's faculty, staff and student disciplinary policies.

C. Confidentiality

The University recognizes the importance of confidentiality. Title IX Coordinators and others involved in the investigatory process shall respect the confidentiality and privacy of individuals reporting or subject to allegations of sex discrimination. Confidentiality may not be able to be maintained in circumstances where the law requires disclosure of information or when disclosure required by the University outweighs protecting the rights of others.

D. Retaliation

Retaliation against an individual who reports or complains of sexual discrimination or who provides information in such investigations or proceedings is prohibited. Alleged retaliation shall be subject to investigation and may result in disciplinary action.

E. False Claims

An individual who knowingly makes false allegations of sex discrimination, or who knowingly provides false information in a sex discrimination investigation or proceeding, shall be subject to disciplinary action.

III. COMPLAINT PROCEDURES FOR CONDUCT OF A SEXUAL NATURE

A. Sexual Harassment

The University is committed to taking effective action to prevent and correct sexual harassment by or against members of the University community. Sexual harassment is defined as follows:

Unwelcome sexual advances, request for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic or student status, or
- submission to or rejection of such conduct by an individual is used as the basis for employment, academic or other institutional decisions affecting such individual, or
- such conduct has the purpose or effect of unreasonably interfering with an individual's work performance, academic activities or student experience, or creating an intimidating, hostile or offensive working, academic or student life environment.

Individuals who believe they have been the victims of sexual harassment and/or who wish to file a complaint regarding an issue of sexual harassment should consult the University's *Sexual Harassment* policy. Such complaints shall be reviewed, investigated and resolved in accordance with that policy.

B. Sexual Misconduct

The University is committed to fostering a safe campus environment where sexual misconduct is unacceptable and is not tolerated. Sexual misconduct is defined as any act

of a sexual nature perpetrated against an individual without effective consent or when an individual is unable to freely give consent. Sexual misconduct includes, but is not limited to the following:

- Attempted or completed intercourse or penetration (anal, oral or vaginal);
- Sexual touching (including disrobing or exposure);
- Sexual exploitation; or
- Sexual intimidation.

Allegations of sexual misconduct made by a student against a student should be reported to a University Title IX Coordinator in accordance with the University's *Sexual Misconduct* policy.

Allegations of sexual misconduct made by a student or employee against a University employee or a third party should be reported to a University Title IX Coordinator in accordance with the University's *Sexual Harassment* policy. Also, allegations of sexual misconduct by an employee against a student should be reported to a University Title IX Coordinator in accordance with the University's *Sexual Harassment* policy. Such allegations shall be reviewed, investigated and resolved in accordance with the applicable policy.

TITLE IX COMPLAINT PROCESS
(COMPLAINTS INVOLVING CONDUCT OF A NON-SEXUAL NATURE)

