

Procedures for Complaints of Sex Discrimination

A. Complaint Procedure - Generally

All employees are responsible for helping to prevent discrimination on the basis of sex. Employees, or students who believe they have been subjected to, or believe they have witnessed, discrimination on the basis of sex should contact the Title IX Coordinator.

The following individuals may file a complaint alleging sex-discrimination:

- a. A student or employee of ESU #13 who is alleged to have been subjected to conduct that could constitute discrimination on the basis of sex.
- b. A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant; or
- c. The ESU 13's Title IX Coordinator(s).

Anyone making a claim of discrimination must submit the complaint in writing to the Title IX Coordinator using the following contact information:

TITLE IX COORDINATOR CONTACT INFORMATION

ESU #13 Compliance Coordinator/Human Resources Department
4215 Avenue I, Scottsbluff, NE 69361
308-635-3696

Complaints of discrimination on the basis of sex shall be investigated and, if substantiated, corrective or disciplinary action taken, up to and including dismissal from employment if the offender is an employee, or suspension and/or expulsion if the offender is a student. Retaliatory action will not be taken against an employee or student for reporting discrimination.

The following will apply to all investigations of sex-discrimination, pursuant to this procedure:

- a. ESU #13 will treat complainants (the employee, student, or representative making the claim) and respondents (those accused of sex discrimination) equitably.
- b. ESU #13 will not permit any Title IX Coordinator, investigator, or decision maker to have a conflict of interest or bias for or against any complainant or respondent.
- c. ESU #13 will ensure that the Title IX Coordinator, investigator, and decision maker will not predetermine or presume that the respondent is responsible for the alleged sex-based discrimination until a determination is made at the conclusion of the investigation process.
- d. ESU #13 will take reasonable steps to protect the privacy of the parties and witnesses during the grievance process. These steps will not restrict the ability of the parties to obtain and present information, including speaking to witnesses, consulting with their family members, confidential resources, or advisors; or

- otherwise preparing for or participating in the grievance procedures.
- e. ESU #13 will not allow the parties to engage in retaliation.
 - f. ESU #13 will objectively evaluate all evidence that is relevant and not otherwise impermissible, including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness.

B. Investigation Process

When the Title IX Coordinator receives or initiates a complaint of possible sex discrimination in ESU #13, the Coordinator shall designate an ESU #13 employee to initiate an investigation. The Title IX Coordinator may designate themselves as the investigator. Within a reasonable time after receipt of a complaint under this procedure, the Title IX Coordinator shall provide the following to all known parties (A) a copy of this complaint procedure; (B) notice of the allegations of sex-based discrimination including (i) the identities of the parties involved, if known, (ii) the conduct allegedly constituting sex-based discrimination and (iii) the date and location of the alleged incident; (C) notice that retaliation is prohibited; (D) the identity and contact information for the investigator; and (E) notice that the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence.

After the investigator has been designated to investigate a complaint, the investigator shall then promptly gather evidence sufficient to reach a determination regarding whether the complaint is substantiated or not. To reach a determination, the investigation should generally include, but is not limited to:

- a. Providing the parties with the opportunity to present witnesses and provide pertinent information.
- b. An evaluation of all relevant information and documentation relating to the alleged discriminatory conduct.

The investigator will aim to complete its investigation within a reasonable timeframe as determined by the investigator.

At the end of the investigation, the investigator shall make findings and a determination of what occurred. The determination shall be based upon a "preponderance of the evidence" standard (based on the evidence, is it more likely than not that discrimination occurred?).

During an investigation, the Title IX Coordinator or designee may place an employee on administrative leave during the pendency of the investigation. The Title IX Coordinator or designee may also remove a student from the educational program during the investigation.

Before the end of the investigation, either party may make a written request to the Title IX Coordinator to view the relevant evidence that will be considered by the investigator. After such a meeting, either party may submit additional evidence for the investigator to consider.

Throughout the investigation, either party may be entitled to supportive measures. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed.

Supportive measures may include, but are not limited to, counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus and other similar measures. ESU #13 shall maintain as confidential any supportive measures provided to the complainant or respondent to the extent that maintaining such confidentiality would not impair the ability of ESU #13 to provide the supportive measures.

C. Resolution of Complaints

Once the investigator has completed his or her investigation, the investigator shall prepare a report of their investigation and a determination of what occurred. The determination shall include an assessment of whether the investigator determines that the complaint is wholly substantiated, partially substantiated, or not substantiated. After the report has been finalized, the investigator shall submit the report to the Title IX Coordinator. If the Title IX Coordinator conducts the investigation, the Title IX Coordinator shall submit the evidence and report to a different administrator in ESU #13..

The Title IX Coordinator (or other administrator) shall then review the report, along with all evidence gathered by the investigator, to determine whether the investigator followed the grievance procedures, considered the appropriate evidence, did not consider any inappropriate evidence, ensured all parties and witnesses were provided due process, and otherwise confirm that the investigation was handled properly. The Title IX Coordinator (or other administrator) shall also independently assess whether the investigator's conclusions were supported by the evidence and otherwise equitable. Based upon the Title IX Coordinator's review and independent conclusion, the Title IX Coordinator shall have the authority to initiate any appropriate remedial measures, which may include termination of employment, expulsion or suspension from school, or other disciplinary actions.

D. Appeal of Decision

A complainant or respondent who disagrees with the Title IX Coordinator's decision may appeal the decision to the ESU Administrator. Any appeal must be in writing and submitted to the Administrator within five school days of the date of the decision. The Administrator shall then promptly review the evidence and determine whether the Title IX Coordinator's decision was correct. The Administrator has the authority to reverse or modify the Title IX Coordinator's decision and take any other steps necessary to ensure that the Title IX Coordinator's decision was correct. After the Administrator has made a final determination, the Administrator shall notify both the complainant and respondent in writing of the Administrator's decision. No further appeal may be made beyond the Administrator.

E. Record Keeping

ESU #13 will maintain relevant documentation obtained during the investigation and findings, supportive measures, and disciplinary sanctions for a period of seven years.