

DISCRIMINATION GRIEVANCE INVESTIGATION PROCEDURE

The following guidelines apply to the procedure referenced in UCF Regulation [3.001](#), Non-Discrimination and Affirmative Action. They implement UCF Regulation [3.0134](#), Grievances Alleging Discrimination, and they will be applied to each action filed under the UCF Discrimination Grievance Procedure. The standards used at each step are described generally, with the understanding that the primary intent is to determine the facts, identify any violation of the university's regulation prohibiting discrimination, and implement a resolution to grievances which identify one or more violations.

Secondary goals include improvement of the University's support of equal opportunity and affirmative action, encouragement of cultural diversity, and treatment of individuals with respect and dignity. These secondary goals may foster actions by the university president that correct perceptions or enhance the climate despite no finding of a violation of the regulation prohibiting discrimination. Such actions will be differentiated from corrective measures implemented based on findings of a violation.

This procedure is presented in six sections: Intake, Investigation, Communication and Reporting, Implementation of Corrective and Final Actions, Document Dissemination and Storage, and Glossary.

I. Intake

Complaints may be brought to the attention of the Office of Equal Opportunity and Affirmative Action Programs ("EO/AA") in many ways. There is no required format, preceding step, or standing needed to raise an issue with the office. Visits, calls, signed and unsigned written communication all are examples of contacts that may be used to raise an issue.

However, only two forms of contact are recognized for entry into the UCF Discrimination Grievance Procedure: personally-identifiable contact by the grievant with the office, or written, signed contact by the grievant with the office. (Alternate formats of personally-identifiable contact may be provided as a reasonable accommodation to an individual with a disability.)

Confidentiality will be maintained to the extent possible. The fact that a grievance has been filed, and the nature of that grievance, will be communicated only to those who require such information to fulfill their responsibilities.

All documents related to an investigation are protected by statute from review by members of the public while the process is ongoing. Information contained in grievances might be shared with respondents in original format. However, it is more likely that it will be presented in a format in which each statement is related to the charge, with extraneous information removed.

EO/AA does not require the grievant to specify the pertinent laws or mention the title of the regulation UCF 3.001. The office is responsible for comparing the alleged discriminatory actions to any university regulations that fall within its jurisdiction. This procedure is in place to help the University comply with UCF 3.001; all parameters of that regulation should be examined in the investigation. The remedy fashioned in each case will consider the merits of the evidence in a manner that allows the university president to direct appropriate discipline or corrective actions.

At the option of the University, investigation may proceed without a written, signed statement. Complaints that do not meet the definition to enter the grievance procedure may be acted upon in a problem-solving manner, which may differ in form and notification from a Discrimination Grievance. For example, there are cases in which documentary evidence overrules the need for a signed complaint (i.e., allegations of a biased grading pattern or a hostile classroom environment).

Techniques to invite statements without leading the witnesses might be used, such as sampling of potential targets of discriminatory conduct. Correspondence from the Office to the respondent in such cases will indicate that no signed complaint is on file. It may also indicate that no individual remedy will be granted to the individual who supplied the original information.

Grievants will be advised of other forums for resolution, internal (administrative) and external. There may be a bar to their participation in more than one administrative forum. They are also encouraged to inform themselves using the “Resources” tab on the EO/AA homepage.

II. Investigation

The jurisdiction of EO/AA includes discrimination on the bases of race, color, religion, sex (including sexual harassment and pregnancy discrimination), national origin, age, disability, marital status, sexual orientation, gender identity, gender expression, and veteran status (as protected under the Vietnam Era Veterans’ Readjustment Act). Parties who do not claim such bases will be referred to a more appropriate forum or assisted with conflict resolution on a more informal basis.

After reports or complaints are received, the matter will be examined to determine if it appears to fall within the jurisdiction of the office. If so, the procedure continues with a notice to the respondent(s) that an investigation of the listed allegations has been initiated. This notice may contain slight detail and may only serve to inform the respondent, not call for response.

Determination of jurisdiction continues with early fact-finding related to the status of the grievant, timeliness of filing, the preliminary allegations, the University's control over the matter, or administrative actions in progress. If jurisdiction is accepted and the allegations are supported by signed, written statements, the investigation will proceed. If no such statements are received, the respondent will be notified of that fact. The

investigation may still continue, if the Director of EO/AA deems it appropriate, but there may be no individual remedy available to those who informed the university about the issue.

An investigation plan then is developed by the Office. It usually will entail elements such as confirmation of jurisdiction; one or more interviews with the grievant, respondent, and witnesses; document collection; receipt of signed, written statements; clarification of unresolved issues; and preparation of the final report and supporting evidence.

The elements may be accomplished in varying order to best meet the demands of the investigation. It is most common to provide the respondent with the last opportunity to comment on the unresolved issues prior to preparing the report and its findings.

Interviews are commonly conducted in private, with no representatives or observers. Recording (by person or device) is not considered appropriate for this process, which is an informal, proactive administrative procedure. The Discrimination Grievance Procedure is predicated on the belief that effective personal communication in this type of investigation is one-to-one.

Similarly, those electing counsel should understand that EO/AA will be represented by the university's Office of the General Counsel in matters related to the investigation. Representation of grievants by private counsel is permitted. However, it is not envisioned in this process, since no determination of corrective actions (which might include discipline) is made at this level. Administrative resolution of the grievance is the goal of the process. In any case, grievants who choose to be represented by counsel should be aware that arranging for all parties to be present or notified of actions may delay one or more steps of the process.

III. Communication and Reporting

The first communication is normally a notification to the grievant that jurisdiction has been accepted. This is normally followed by a notification to the respondent that a grievance is being investigated. Notification to the respondent will occur no later than seven calendar days after acceptance of jurisdiction.

Interim reports are not common in the investigation. Communication to the grievant, respondent, or witnesses may include statements from other parties for which verification or explanation is requested. Presentation of such statements is not considered a report, a finding, or a predictor of the result of the investigation. It is merely a statement of information with a request for those parties to comment.

The Investigation Report will contain a Statement of Allegations, statement of the violation of regulation that is alleged, facts determined in the investigation, an indication of how the regulation applies to the situation, and findings on each issue.

The university president will receive from EO/AA recommendations for resolving the issue, as called for by the regulation governing this procedure, in a separate document. The recommendations focus on correcting discriminatory actions or patterns. The purpose for providing the recommendations in a separate document is two-fold:

1. It provides the President an opportunity to review the report and independently consider appropriate strategies to address the issues.
2. It provides the President with guidance on such strategies that is based on technical knowledge of administrative structures, appropriate remedies for particular situations, the grievant's request for remedy, and the past practice of the university in similar situations.

Recommendations related to findings of a regulation violation will be differentiated for the president's consideration from recommendations related to improvement of environmental factors or perceptions. Correction or improvement of such factors is important to the university in its continuous efforts to erase discrimination as well as the perception of discrimination.

Recommendations will be tailored to existing systems of due process when available. If cause is found to believe that a violation of university regulation occurred, the recommendation may specify that the designated administrative route be utilized to consider appropriate discipline. Due process attaches to each of those disciplinary procedures.

Other recommendations may be specific to the situation and consistent with university practice, the body of research in the area of violation, and the best interests of the University.

IV. Implementation of Corrective and Final Actions

As specified in the regulation, the President normally selects one of three courses of action once the report and its findings have been accepted.

1. Direct that specific action should be taken according to the recommendations of EO/AA.
2. Direct that specific action should be taken, modifying the recommendations of EO/AA.
3. Direct other actions in lieu of those recommended by EO/AA.

The report and recommendations are returned to EO/AA for implementation. They then may be assigned to appropriate offices, possibly with a monitoring schedule, or undertaken specifically by EO/AA.

V. Document Dissemination and Storage

Once an investigation process is complete, the grievant and respondent is notified of the outcome. Each party is provided a copy of the Investigation Report at no charge.

The final report may become a public document after the completion of the process. Requests for copies will be processed as required. This procedure is available in the Forms section of EO/AA website.

The Investigation Report and all supporting documents, plus the work products used in the investigation, are maintained in EO/AA. They do not become part of any employee's official personnel file as a part of the investigation process.

The President's decision is the final step in the Discrimination Grievance Procedure. Parties who believe that the investigation failed to follow the procedure may request reconsideration by the President by furnishing a detailed written statement. Discipline or other corrective measures taken by appropriate university officials after the investigation also may carry due process rights.

Participation in this process has no bearing on the freedom of grievants to pursue their civil rights in another forum. The investigation procedures are modeled on standards set by EEOC. Therefore, the Investigation Report may be used in the university's interaction with external forums chosen for resolution.

VI. Glossary of Related Terms

The following list contains working definitions of terms commonly used in the UCF Discrimination Grievance Procedure.

Adverse action: an action that is neutral on its face but disproportionately affects persons in a protected class. Disproportion is defined as the affected class succeeding at less than 80% of the success rate for the group used for comparison.

Complainant: A person who has contacted an appropriate official of the University regarding a situation he/she defines as discrimination. See related term, Grievant.

Completion of the investigation: End of a reasonable time, normally one week, following the President's return of the final report and directives to EO/AA. At this time, it can be expected that the directives will be acted upon.

Discrimination Grievance: An action filed with EO/AA, signed by the affected party, presenting a *prima facie* statement of discrimination.

Discriminatory treatment: An adverse action is taken against an individual or class of individuals based on protected class status.

Findings: Statement made to the university president in the Investigation Report, indicating which facts have been substantiated. To be used in determining a violation of UCF 3.001 and, if relevant, which administrative remedies will demonstrate appropriate corrective actions.

Grievant: An individual whose signed discrimination grievance has been accepted by EO/AA for investigation. Once a grievance form is signed by a complainant, reviewed and accepted for action, the complaint is termed a "grievance" and the complainant is termed a "grievant." See related term, Complainant.

Recommendations: Actions proposed to the university president for completion of the investigation process. They may indicate that no action is deemed necessary or include suggestions for particular appropriate actions to be taken.

Report: Information conveyed directly to EO/AA, or to that office from another university representative receiving information. An individual using that format may forego an individual remedy in favor of a generalized corrective action. That individual in some cases may be describing a situation that does not meet the definition of discrimination or retaliation, so jurisdiction within EO/AA will be declined.

Report Findings: Statements believed to be true given the best evidence available, made within the Investigation Report.

Statement of Allegations: Initial document framing the issues presented by the grievant. It is used to announce the charges to the respondent and other individuals whose responsibilities require them to be informed. The statement is normally extracted from the grievance statement and interview(s) with the grievant. It is normally prepared in a manner reflecting the prima facie case of discrimination that would be made if the allegations were substantiated.

UCF Discrimination Grievance Procedure: Defined set of actions taken by the University in accordance with UCF Regulation 3.0134. Supplemented by the EO/AA office's policies and procedures.

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