

University Statement Regarding Affirmative Action

The doctrine of affirmative action generally encourages employers to advocate and implement policies and procedures specifically geared towards the recruitment, employment, and promotion of qualified individuals from groups that have been formerly excluded from equal opportunity in employment. Essentially, effective affirmative action plans should facilitate constructive, deliberate steps towards achieving an environment that is representative of a balanced workforce. Affirmative action is an essential tool in assuring that employment opportunities are accessible to all qualified individuals.

All supervisors, directors, department chairs, administrative officers, deans, and executive officers are individually accountable for the appropriate implementation of approved affirmative action programs and adherence to equal employment opportunity and non-discrimination/harassment standards in their respective areas of responsibility. For more information regarding the university's affirmative action goals and annual report, please consult the Affirmative Action Plan located at www.hr.niu.edu.

NON-DISCRIMINATION/HARASSMENT POLICY

Policy Violation-Defined

This policy prohibits employment/academic decisions that are unrelated to performance, qualifications, academic achievement, and/or conduct that seek to limit, segregate, or classify employees/students on the basis of race, color, national origin, sex, religion, age, physical or mental disability, marital status, veteran status, sexual orientation, political affiliation, or any other factor unrelated to professional qualifications. Specifically, this policy prohibits conduct that discriminates against any employee/student with respect to any aspect of employment, including but not limited to:

- Hiring and firing;
- Compensation, assignment, or classification;
- Transfer, promotion, layoff, or recall;
- Job advertisements;
- Recruitment;
- Testing;
- Use of university facilities;
- Training and apprenticeship programs;
- Fringe benefits;
- Pay, retirement plans, and disability leave;
- Disciplinary actions;
- Other terms and conditions of employment.

-OR-

With respect to any aspect of education, including but not limited to:

- Any aspect of admission to the university;

- Programs or organizational activity;
- Educational performance;
- Treatment in the classroom or course evaluation;
- Academic activities external to the classroom;
- Counseling;
- Career planning and placement services;
- Financial assistance;
- Health services;
- Insurance;
- Athletics;
- Access to university facilities;
- All other student activities that have a reasonable impact upon students at the university

-Or-

Harassment in the workplace that is based upon the employee's/student's protected characteristic and;

- Creates or is intended to create an intimidating, hostile, offensive working environment;
- Unreasonably interferes with work performance; or
- Otherwise adversely affects an individual's employment opportunities;
- Constitutes sexual harassment.

Policy Violations - Examples

This section provides some examples of conduct that are considered unlawful discrimination and thus prohibited by this policy. Please consult the specific prevention policies and statements located in the Appendix for more detailed information where appropriate.

1. *Policy Violation on the basis of Race* - occurs when differences in employment/academic decisions are based upon the employee's/student's race. Conduct prohibited by this policy includes, but is not limited to, the use of racial slurs, graffiti, or ethnic jokes that create a hostile or abusive working environment.

Typically, a hostile environment is created only when the discrimination or harassment is severe and alters the conditions of the victim's employment/academic environment. The occasional improper comment and/or joke, generally, will not create such a hostile environment and/or be indicative of racial discrimination unless such conduct is severe, pervasive, and/or occurs on a frequent basis.

2. *Policy Violation on the basis of Sex/Gender* - occurs when differences in employment/academic decisions are based upon the sex/gender of the employee/student. Policy violations include decisions that are based upon sex/gender or involve a comparison of one gender to another that results in different treatment. Members of either gender may bring claims of discrimination on the basis of sex/gender. Sexual harassment or decisions based on marital status or pregnancy are also forms of gender/sex discrimination. Hiring decisions based upon physical characteristics can be discriminatory if such decisions have an

adverse impact upon one gender more than the other. (Example: Height and weight requirements that tend to exclude more women than men have been ruled discriminatory in the absence of a clear business necessity for the requirement).

3. ***Policy Violation on the basis of National Origin*** - occurs when differences in employment/academic decisions are based upon the employee's/student's place of birth or ancestry. Some examples of this type of violation include, but are not limited to, employment/academic decisions that are based upon;
 - Physical, cultural, or linguistic characteristics of a national origin group;
 - Marriage to or association with persons, membership in organizations, or attendance at schools or churches associated with a national origin group;
 - Aptitude or other employment tests, unless such requirements are applied equally to all applicants and relate to successful job performance;
 - An accent or manner of speaking, unless there is a legitimate, nondiscriminatory reason for the action.

4. ***Policy Violation on the basis of Religion*** - occurs when differences in employment/academic decisions are based upon the employee's/students religious beliefs/practices. Religious practices include traditional religious beliefs, moral and ethical beliefs, and beliefs that individuals hold "with the strength of a traditional religious view."

5. ***Policy Violation on the basis of Age*** - occurs when differences in employment/academic decisions are based upon the employee/student being age 40 and above. Northern Illinois University will not tolerate age-related employment decisions against any individual, regardless of his or her age.

Examples of age related discrimination includes, but is not limited to, characterizations, stereotypes, jokes, or insults regarding the employee's/student's age, poor health, and/or medical conditions, forced retirement, and the use of any derogatory terms regarding age.

For more information regarding age discrimination, please consult the **University Statement Prohibiting Discrimination on the Basis of Age** located in Appendix A.

6. ***Policy Violation on the basis of a Disability*** - occurs when differences in employment/academic decisions are based upon the employee's/student's disability rather than upon the employee's/student's ability to perform the essential functions of the position/academic requirements with or without reasonable accommodations.

For more information regarding discrimination on the basis of a disability, please consult the **University Statement Prohibiting Discrimination against Individuals with Disabilities** located in Appendix D.

7. ***Policy Violation on the basis of Sexual Orientation*** - occurs when employment/academic decisions are based upon or biased because the employee's/student's sexual orientation is or is perceived to be heterosexual, lesbian, gay, bisexual, or transgender. Examples of conduct

prohibited by this policy includes, but is not limited to, offensive language, mockery, verbal threats, damage to personal property, and physical violence or harassment.

For more information regarding discrimination on the basis of sexual orientation, please consult the **University Statement Prohibiting Discrimination on the basis of Sexual Orientation** located in Appendix B.

8. ***Policy Violation on the basis of Sexual Harassment*** – occurs when sexual behavior or requests for sexual favors:
- Are made either explicitly or implicitly a term or condition of employment or educational performance.
 - Are made as the basis of employment or academic decisions affecting the individual as an employee or a student.
 - Have the express purpose or effect of substantially interfering with an individual's work/academic performance or creates an intimidating, hostile or offensive working academic environment

The two types of sexual harassment are known as Quid Pro Quo and Hostile Environment and are defined below:

Quid Pro Quo- is the Latin term for “this for that” and occurs when there is a demand for a sexual favor in exchange for some employment/academic benefit.

Hostile Environment- occurs when the harassing behavior unreasonably interferes with an employee's/students work/academic performance or creates a hostile, intimidating, or offensive work/academic environment.

In order for the conduct to be considered sexual harassment, the behavior must be:

- Unwanted or unwelcome;
- Sexual in nature or related to the sex or gender of the employee/student;
- Sufficiently severe or pervasive to alter the conditions of the recipient's employment or education.

Examples of sexual harassment in employment or education include, but are not limited to, uninvited sexual comments or innuendo, oral, written, or electronic communications that are sexually explicit in nature or sexually explicit questions, jokes, or anecdotes about gender-specific traits.

For more information regarding sexual harassment, please consult the **Sexual Harassment Prevention Policy** located in Appendix C.

9. ***Policy Violation on the basis of Retaliation for opposing unlawful employment practices protected by Title VII or this policy*** – occurs when an employee/student is subjected to adverse employment/academic decisions because the employee/student has opposed and/or has a reasonable good faith belief that violations of this policy or unlawful employment/academic practices have occurred. A policy violation on the basis of retaliation

may also occur if the employee/student is retaliated against because he /she has made a charge, filed a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing concerning an unlawful employment/academic practice.

For more information regarding retaliation, please consult the **Non-Retaliation Policy Statement** located in Appendix E.

10. *Policy Violation on the basis of VESSA*- occurs when differences in employment/academic decisions are based upon the employee's/student's status as a victim of or perceived victim of domestic or sexual violence. Conduct prohibited by this policy includes, but is not limited to, discharging or harassing an individual for exercising their rights under VESSA.

UNIVERSITY AFFIRMATIVE ACTION COMPLAINT PROCEDURES

Affirmative Action Complaint Process - Defined

The goal of the complaint process is to resolve and correct situations and maintain positive working environments that are consistent with legal and professional standards. Developing case law indicates that most courts encourage individuals who experience illegal acts of discrimination, harassment, or retaliation to utilize internal procedures provided by the organization prior to filing an external claim. As the university is committed to maintaining an educational/employment atmosphere that is free from all forms of discrimination, all employees/students are strongly encouraged to utilize the internal complaint procedures as stipulated by this policy to address possible violations of the university's non-discrimination/harassment policy.

An employee and/or student who has witnessed and/or experienced what he or she believes is conduct that violates the university's non-discrimination/harassment policy should initially attempt to resolve the issue directly with the alleged offender or seek assistance from his/her supervisor. If this is not possible, the employee/student has the right and/or responsibility to file an affirmative action complaint in accordance with the procedures contained in this policy. The employee/student may also seek assistance through the Affirmative Action Complaint Alternatives outlined in this policy. However, **seeking assistance via these alternatives will not constitute the filing and/or notification of issues that can be addressed by the affirmative action complaint process and thus an investigation into such matters should not be an anticipated result.** An affirmative action investigation will only be conducted upon receipt of a formal affirmative action complaint form and if warranted by the facts contained in the formal complaint form or discussed with the parties involved.

The Affirmative Action Complaint Process and procedures contained in this document may proceed independent of any other grievance procedure provided for elsewhere by the university including, but not limited to the Faculty/Staff University Grievance Process, Grade Appeal Process, and Collective Bargaining Grievance Processes. An investigation may be waived by AADR if the desired outcomes necessary to achieve policy compliance or to resolve the issues contained in the complaint are achieved by these or other internal administrative processes. The