



NORWICH UNIVERSITY™

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NON-DISCRIMINATION POLICY

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NORWICH UNIVERSITY NON-DISCRIMINATION POLICY

TABLE OF CONTENTS

Policy and Definitions 1-3

Examples of Sexual Harrassment. 3

Student Consensual Relations 3

Faculty and Staff Consensual Relations 4

Filing a Complaint with the University. 4-5

Confidentiality, Retaliation, Providing False Information. 5

Informal Resolution 6-7

Formal Investigation & Determination. 7-9

Appeal Process 10

Flow Charts 11-12

NORWICH UNIVERSITY NON-DISCRIMINATION POLICY

Non-Discrimination Policy

Norwich University is committed to providing a positive education and work environment that recognizes and respects the dignity of all students, faculty and staff. This goal cannot be a reality unless each student and employee can learn, work and achieve to the full extent of her/his capabilities unencumbered by artificial or preferential restrictions or requirements.

Norwich University takes positive action to insure that all applicants for admissions or for employment are considered, and students and employees are treated in compliance with applicable laws and regulations governing non-discrimination on the basis of gender, race, ethnicity, national origin, color, religion, disability, sexual orientation, age or veteran's status. Provisions of this section prohibiting discrimination on the basis of sexual orientation shall not be construed to change the definition of family or dependents in employee benefit plans.

The successful implementation of this policy is the responsibility of every member of the University community. Discriminatory harassment of any form undermines this important commitment and is not appropriate or acceptable within the university community and will not be tolerated.

SCOPE OF POLICY

This policy applies to faculty, staff, other employees and agents, students and organizations receiving Norwich University funding, or that use the Norwich University name or facilities.

To implement this policy, Norwich University has established: (1) standards of conduct in the form of prohibitions of discrimination that apply to all members of the Norwich University community and (2) procedures for resolving complaints of discrimination.

Inquiries regarding this policy may be directed to the Norwich University Equal Opportunity Office (Room 321B, Jackman Hall, 485-2144).

STATEMENT OF PROHIBITED CONDUCT

Norwich University and federal or state law prohibit discrimination or harassment on the basis of gender, gender identity, race, ethnicity, national origin, color, religion, disability, sexual orientation, age, genetic information, ancestry and place of birth, or veteran's status (hereinafter "protected characteristics"). This means that no individual may be excluded from participation in, be denied the benefits of or otherwise be subjected to discrimination in any NU program

or activity on the basis of a protected characteristic. The University seeks to protect and preserve the dignity and integrity of all of its members; therefore, discriminatory behavior in such forms as epithets, crude gestures, threats or offensive pictures, is unacceptable under any circumstances and will not be tolerated. An individual who engages in behavior that is determined to be a violation of this policy shall be subject to appropriate disciplinary action. See SANCTIONS.

NORWICH UNIVERSITY NON-DISCRIMINATION POLICY

Discrimination generally may take either of two forms:

1. Differential treatment of an individual that is based on a protected characteristic and that interferes with or limits the ability of that individual to participate in or benefit from a University program or activity.
2. Harassment of an individual based on a protected characteristic, which has the purpose or effect of substantially interfering with a student's or employee's educational or work performance or creating an intimidating, hostile, or offensive environment. Conduct is examined to determine whether it was persistent, pervasive, or severe, based on a "reasonable person" standard.
 - a. Harassment based on a protected characteristic may occur when prohibited behavior is used to exploit the authority inherent in a faculty member's or supervisor's relationship to his or her students or supervisees. Faculty and supervisors exercise power over students and supervisees in giving praise or criticism, in conducting formal evaluations, in making recommendations for further study or employment, or in conferring any other benefits.
 - b. Harassment based on a protected characteristic may also occur between persons in similar positions (e.g., student-student, faculty-faculty, or staff-staff) or in situations where the victim is perceived to have more power than the harasser (e.g., a student may harass a faculty member).
 - c. Speech or other expression may constitute harassment if it: insults or stigmatizes an individual or an identifiable group of University-related individuals on the basis of one or more protected characteristics, or makes use of words or nonverbal symbols that convey hatred or contempt for human beings on the basis of such characteristics, or is addressed directly to (though not necessarily in the presence of) the individual or individuals whom it insults or stigmatizes.

Examples of expressed harassment include epithets or jokes referring to any individual's group-based attributes, placement of offensive written or visual material in another's living quarters or work area, and offensive messages sent through electronic mail.

Harassment may also occur in the form of non-verbal acts such as vandalism or destruction of property, undesired physical contact, physical assault or violence, or threat of same.

Explanatory notes:

Because harassment can take the form of speech, it is therefore necessary to distinguish such forms clearly from the protected speech that is vital to the intellectual enterprise of the University. Thus, in most circumstances:

1. Speech that conveys broad-based opinion, conviction, or speculation is not harassment.
2. Political commentary and satire are not harassment.

Norwich University is committed to the principles of free inquiry and free expression. Vigorous discussion and debate are fundamental to the University, and this policy is not intended to stifle teaching methods or freedom of expression generally, nor will it be permitted to do so. Harassment and discrimination, however, are neither legally protected expression nor the proper exercise of academic freedom; they compromise the integrity of the University, its tradition of intellectual freedom, and the trust placed in its community members.

NORWICH UNIVERSITY NON-DISCRIMINATION POLICY

- d. Sexual harassment is a form of discrimination on the basis of gender or sexual orientation. Both men and women may be victims of sexual harassment by persons of the same or opposite gender. Sexual harassment may be described as unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature toward any student, faculty member or other employee when:
- (1) submission to such conduct is made explicitly or implicitly a term or condition of a person's employment or academic advancement;
 - (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions or academic decisions affecting the person;
 - (3) such conduct has the purpose or effect of unreasonably interfering with a person's work or academic performance or creating an intimidating, hostile or offensive working or academic environment.

EXAMPLES OF SEXUAL HARASSMENT

Sexual harassment may range from sexual innuendo, even in the guise of humor, to coerced sexual relations. Harassment is judged on the basis of conduct and its effects on the recipient, not the intentions of the harasser. Conduct is examined to determine whether the victim "welcomed" the behavior or activity, not whether the victim "consented" to the acts. It may include, but is not limited to:

- having social events focusing on men's or women's sexuality, such as wet T-shirt contests,
- unwelcome sexual jokes, comments or inquiries,
- soliciting sexual favors in exchange for some type of academic or employment benefit,
- subtle pressure for sexual activity,
- using unwelcome nicknames with sexual connotations such as baby, babe, ho, hunk, etc.
- nude or seminude posters, photos, cartoons, or graffiti in the workplace or public place (student rooms in certain circumstances are considered public space) that are demeaning or offensive and when not used in connection with an academic program or class,
- repeated "accidental" physical contact,
- demanding sexual attention with implied threats or rewards,
- explicit offers of money for sexual attention,
- threats for failing to submit to sexual pressure,
- physical assault, including sexual assault or rape (covered under the separate Norwich University Policy on Sexual Assault & Sexual Misconduct).

STUDENT CONSENSUAL RELATIONS

Where there is a power differential between the persons involved in the consensual romantic or sexual relationship there is the potential for sexual harassment. Students in leadership roles need to be cognizant that consenting romantic and sexual relationships between supervisor and subordinate while not expressly forbidden (See the Student Rules and Regulations "Personal Relationships" Section for exceptions) are discouraged. If a charge of sexual harassment is subsequently filed, it will be difficult to defend on grounds of mutual consent.

NORWICH UNIVERSITY NON-DISCRIMINATION POLICY

FACULTY & STAFF CONSENSUAL RELATIONS

A consensual romantic or sexual relationship between individuals where one of the individuals has a professional responsibility for the other would be a violation of this policy. Professional responsibility includes supervision or evaluation of another in carrying out the duties of a position at the University. Efforts by members of the faculty or staff to initiate such relationships also violate this policy.

Relationships viewed by the parties involved as mutual and consensual may be viewed by others as exploitative, or a conflict of interest, negatively affecting the University environment.

Even where professional responsibility is absent, any University employee who enters into a romantic or sexual relationship with a student or subordinate must realize that, if a charge of sexual harassment is subsequently lodged, the fundamentally asymmetric nature of the relationship shall make it exceedingly difficult to prove mutual consent. The University will not represent an accused employee who has entered into such a relationship.

An employee engaged in a romantic or sexual relationship with a student or subordinate must not participate in professional activities or decisions affecting that person. Failure to withdraw from such activities shall be considered a serious breach of professional ethics and a violation of this policy.

EDUCATION

Norwich University will work to educate employees and students relative to the prevention of harassment and discrimination and the provisions of this policy. The intent of this training is to produce an institution that is free of harassment and discrimination.

INFORMATION AND COUNSELING

Anyone may seek advice, information, or counseling on harassment or discrimination by contacting the Equal Opportunity Officer (Officer) or an Equal Opportunity Contact Person (Contact Person). Persons who have experienced harassment or discrimination, or are uncertain as to whether what they have experienced is considered harassment or discrimination, are encouraged to talk with the Officer or a Contact Person. Contact Persons are Norwich University faculty and staff members who are trained in identifying harassment or discrimination and handling complaints. The most up to date listing of the Contact Persons may be found at the Norwich University website <http://www.norwich.edu/title-ix> or by calling the Officer at extension 2144. Additional Contact Persons may volunteer or be recommended to the Officer. Individuals who are called to participate in the complaint resolution process are encouraged to seek counseling and support. You can meet with a Norwich University Counselor on a confidential basis by contacting the Counseling Center at extension 2134.

FILING A COMPLAINT WITH THE UNIVERSITY

The first step in filing a complaint of harassment or discrimination, or getting more information, is to speak with the Officer or a Contact Person. The Officer or a Contact Person is available to answer questions about discrimination or harassment, or to help an individual decide if he or she is experiencing discrimination or harassment, and to work to stop it if it is happening. The Officer can assist the individual in deciding which route to take with the complaint: informal resolution, or formal investigation and determination.

NORWICH UNIVERSITY NON-DISCRIMINATION POLICY

Third Party Complaint

A person who has not experienced harassment or discrimination but has information regarding someone else who has experienced harassment or discrimination is expected to report that information. To make a third party complaint, the individual is encouraged to contact the Officer or a Contact Person as soon as possible. Upon receipt of such information the Officer will make preliminary inquiries, which may include contacting the alleged victim, to determine whether further action is warranted. If a concern about harassment or discrimination is reported to the Officer or a Contact Person by someone other than the alleged victim of harassment or discrimination, and the alleged victim is unwilling or unable to provide a written statement, the Officer will have the incident investigated if sufficient information is furnished to enable the University to conduct a meaningful and fair investigation. If the alleged victim of harassment or discrimination provides an oral statement, the Officer or Contact Person will reduce the oral statement to writing and such statement will serve as the complaint.

Failure of the complainant or the alleged victim of a harassment or discrimination report, to assist the Equal Opportunity Office in the investigation process may limit the University's ability to respond effectively to the conduct that prompted the complaint or report.

Reports by University Officials

University officials who become aware of conduct that could be a violation of the Non-Discrimination Policy have an obligation to report that information to the Officer. "University officials" include campus Security Officers, those with EO or Human Resources administrative authority, and Student Affairs personnel with oversight responsibilities for students or employees. This reporting obligation does not override applicable laws and policies on confidentiality of communication with mental health professionals, physicians, clergy, attorneys, and the like. **If a University employee fails to cooperate, or interferes with, a University investigation, that employee will be subject to disciplinary action up to and including dismissal.**

CONFIDENTIALITY, RETALIATION, PROVIDING FALSE INFORMATION

Confidentiality

The confidentiality of the complainant, the respondent, and all other parties involved in the complaint resolution process will be observed provided it does not interfere with the institution's ability to investigate or take corrective action. Complainants, respondents, and any witnesses are instructed not to talk about the complaint except to receive guidance and counseling from family, appropriate administrators, and other formal advisors.

Retaliation

Retaliation or reprisals against an individual who in good faith reports or provides information about behavior that may violate this policy will not be tolerated.

Providing False Information

Intentionally making a false report or providing false information to the Investigator or Officer will not be tolerated.

A complainant whose factual allegations are truthful, but are not found by the Officer to constitute a violation of the policy, has not provided false information within the meaning of these guidelines.

An individual found in violation of the Confidentiality, Retaliation, or Providing False Information clause advances to step eleven (11) of the Formal Investigation and

NORWICH UNIVERSITY NON-DISCRIMINATION POLICY

Determination Process. Students may also be subject to an Honor Violation Investigation for providing false information during the complaint resolution process.

SANCTIONS

In the event of determination of harassment or discrimination, sanctions will be reasonably calculated to attempt to prevent reoccurrence and allow the victim/complainant to reach full potential in the performance of his or her assigned job or educational pursuits. Prior violations of University policy and sanctions will be taken into consideration. Sanctions may include, but are not limited to, any of the following:

- oral or written reprimand
- writing a letter of apology to the offended party
- change of job or class assignment (removing a person from being in a position to retaliate or further affect the victim/complainant)
- advice and counseling
- mandatory attendance at an appropriate educational class (at the expense of the respondent)
- relevant community service
- prohibiting a student from holding office or participating in student activities, including sports, for a specified time
- transferring the students to different housing or banning them from University housing facilities,
- suspension (with or without pay)
- termination or dismissal.

In addition to the above-listed potential sanctions, a respondent, or any other party, may at any time be referred to other University disciplinary processes because of information obtained from the complaint resolution process.

COMPLAINT RESOLUTION PROCESS OPTIONS

When information about an incident of harassment or discrimination is brought to the attention of the Officer, he or she will contact the complainant to explain the policy and complaint resolution process options. The Officer may be excused from carrying out his/her duties under the policy in the event of a conflict of interest or the like. In the absence of the Officer, the Director of Human Resources will assume the role of, or appoint an Acting Officer.

INFORMAL RESOLUTION

The aim of informal complaint resolution is not to determine whether there was intent to harass or engage in discriminatory conduct but to ensure that the alleged offending behavior ceases and that the matter is resolved promptly at the appropriate level. The assumptions underlying this form of resolution are that both parties perceive a problem (although they may define the problem differently), that both share a common interest in solving that problem, and that together they can negotiate an agreement that will be satisfactory to everyone involved. The focus is on what will happen in the future between the parties, rather than on what has happened in the past. No sanctions are imposed in resolving informal complaints.

If at any point during an informal resolution of a complaint, either the complainant or the respondent communicates dissatisfaction with the process or resolution and the Officer deems it appropriate, the Officer can terminate the informal resolution and begin the formal investigation and determination process.

NORWICH UNIVERSITY NON-DISCRIMINATION POLICY

Mediation

If agreed to by both the complainant and the respondent, mediation by an internal or external third party may be used as a form of informal resolution. It can be helpful in setting boundaries for future contact, for instance, including whether the parties may contact each other at all, specifics on who uses what lab at what time, etc. The most important outcome of mediation is that both parties agree to the resolution.

Many people think that in order to mediate, they need to sit face to face and talk. Mediated resolutions can be worked out without the parties ever meeting together, by the mediator talking with each party in turn and relaying what they are willing to agree to each other. Mediation may also be used following the outcome of a formal investigation and determination to work out the details of future contact.

FORMAL INVESTIGATION AND DETERMINATION

A request for a formal investigation of an allegation of harassment or discrimination should be addressed to the Officer or to any one of the University Contact Persons.

If the complaint allegations, assuming factual support, could constitute harassment or discrimination, the Officer may nonetheless elect not to investigate for reasons which could include, but are not limited to, that (1) the alleged harassment or discrimination occurred more than 365 calendar days before the complaint was filed; or (2) the person against whom the complaint is made is no longer associated with Norwich University at the time the complaint is filed. This decision will be made by the Officer in the exercise of his/her sole and reasonable discretion. If the decision is made not to investigate a complaint, the complainant has the right to appeal as described in the APPEAL section.

The complainant has the right to withdraw the complaint in writing at any time, although if the University believes a violation of this policy has occurred, it may be required by law to continue the investigation on its own.

Once a complaint has been filed and a formal investigation deemed appropriate, the following procedure will ordinarily be used:

1. The Officer will assign or retain an investigator. If appropriate, the Officer may elect to have a complaint investigated by an external third party. If the Officer is unable to serve, or serves as the Investigator, the Director of Human Resources will assume the role of Acting Officer and will carry out the responsibilities of the complaint resolution process as outlined in the policy. The Complainant will be notified in person or in writing the identity of the Investigator.
2. The Officer will attempt to meet with the respondent to inform him or her that a complaint of harassment or discrimination has been filed and that a formal resolution is desired. Should the respondent admit to the charges as described by the complainant, the process will then continue at step eleven (11) of the complaint resolution process and the investigation will be terminated.
3. The Officer will advise the respondent by letter that a formal charge of harassment or discrimination has been brought against him or her and that he or she is not to contact the complainant regarding the complaint or to otherwise engage in any retaliatory conduct. With the letter, the Officer will send a copy of this policy to the respondent. This package will be marked "confidential" and will either be sent electronically or sent to the mailing address of the respondent. The name of the Investigator will be included in this letter. The Officer will notify appropriate faculty or administrators that the University is conducting an investigation into an allegation of harassment or discrimination.

NORWICH UNIVERSITY NON-DISCRIMINATION POLICY

4. The complainant or the respondent must notify the Officer in writing within two (2) business days of the Investigator being identified if he or she believes that the Investigator cannot be objective and fair, and must also state at that time the reasons for that belief. The Officer will review the objection and within two (2) business days, in his/her sole discretion, determine whether a different Investigator will be assigned. If a new Investigator is to be assigned to the complaint, both parties will be notified in writing.
5. The respondent may, but is not required to, respond in writing after receiving notification of the complaint. Any such written responses will be addressed to the Investigator. The respondent will have an opportunity to meet directly with the Investigator and to offer whatever he or she would like in explanation.
6. The investigation will be conducted as promptly as possible without compromising thoroughness. The Investigator is expected to (1) Perform the investigation and make his or her findings in an objective and fair manner, (2) Investigate the complaint thoroughly and expeditiously, and (3) Submit a written investigation report to the Officer in a timely manner. It is expected that the Investigator will complete his or her report on the case within thirty (30) days of receipt of the formal complaint. If, for any reason, the investigation is not completed within thirty (30) days, a written explanation will be provided to both the complainant and the respondent. The Officer will update both parties every thirty (30) days in writing. The Investigator is authorized to contact any and all individuals, without limitation. The Investigator is authorized to access relevant records, including personnel, grievance and student records, except those deemed confidential or privileged by law.
7. The complainant and respondent will be asked to identify all witnesses with whom they wish the Investigator to speak. The Investigator will interview those witnesses who are believed by the Investigator to have first-hand knowledge of the incident or otherwise relevant information. The Investigator is not otherwise required to interview any particular witness, even if identified by one of the parties. All witnesses, including but not limited to the parties, are strongly encouraged to cooperate with the Investigator's request for an interview.
8. The respondent and the complainant may each elect to have a neutral third party/ advisor of their choice present with them at the investigatory meetings to provide moral support. (A neutral third party may be a roommate, a friend, a faculty advisor, the Chaplain, or someone not connected in any way with the complaint. A boyfriend/ girlfriend, partner/spouse, parent, sibling, advocate, or attorney are not neutral and may not serve in this role). The advisor may not play any other role in the investigative process (e.g., an advisor cannot also be a witness), and cannot speak or otherwise represent their advisees during the interview. Individuals who wish to bring an advisor to an interview must notify the Officer at least 24 hours in advance of their intent to bring an advisor. A Contact Person (including the one who initially received the complaint) may act as an advisor.
9. At the conclusion of the investigation, the Investigator will send a copy of the findings and report to the Officer. If the report is accepted (that is, not returned for further fact finding or clarification within 7 days), a copy will also be sent to the respondent and the complainant. The report will detail findings of the facts regarding the complaint and make recommendations about whether or not the University's Non-Discrimination Policy has been violated. The Investigation file will be secured in the Equal Opportunity Office. This file containing relevant documentation obtained during the investigation and complaint resolution process will not be released from the Equal Opportunity

NORWICH UNIVERSITY NON-DISCRIMINATION POLICY

Office unless required by law. Documentation in the file regarding students is protected under the Family Education Rights and Privacy Act (FERPA) and is not any one single participant's educational record.

10. Both the respondent and the complainant will have an opportunity to respond to the report, in writing, within seven (7) days of receipt. Copies of responses should go to the Officer and to the Investigator. The Officer will consider the responses to the Investigator's report. The Officer may, in his or her sole discretion request that the Investigator clarify the Investigator's report or perform additional investigation upon receipt of the responses from both parties. The Officer may also call in any of the parties to confirm or clarify points covered in the Investigator's report, or in the responses to the Investigator's report, after the Investigator's report has been accepted. The Officer is not bound by the investigation report; rather, the report is advisory to the Officer, and in determining whether a violation of the policy occurred, the Officer must conclude that harassment or discrimination has been proven by a preponderance of evidence, i.e., that it was more likely than not that harassment or discrimination occurred.
11. The Officer will determine whether or not a violation of the policy has occurred and decide what sanctions shall be imposed. Substantiated prior complaints may not be used to substantiate the current complaint; however, substantiated prior complaints may be considered by the Investigator and/or the Officer to the extent relevant in assessing the credibility of the person accused, ascertaining if a pattern of conduct exists, and/or determining whether and what level of disciplinary action is appropriate. Information regarding substantiated past complaints will not be made available to the complainant and third parties other than the Investigator and persons having administrative responsibility under these procedures, except as permitted or required by law.
12. The Officer will send the complainant and the respondent a letter stating whether or not it has been determined that there was a violation of the policy, and if so, what sanctions are to be imposed.

The time periods prescribed in this document for actions by the Officer or the Investigator are intended not as rigid rules, but rather as guidelines to which all are expected to adhere in good faith. The Officer may exercise reasonable discretion to extend deadlines when he or she considers that action necessary or appropriate.

NORWICH UNIVERSITY NON-DISCRIMINATION POLICY

APPEAL PROCESS

The appellate authority for the Non-Discrimination Policy is the Chief Financial Officer (CFO).

Both parties shall have the right to appeal as follows:

All appeals should be typed and should contain justification to support one or more of the following reasons for the appeal:

1. The introduction of new evidence
2. That the evidence was/was not sufficient to support a policy violation
3. That due process was not provided
4. The sanctions were not appropriate to the violation

Appeals must be submitted in writing within five (5) business days of receipt of the decision letter. An appeal will not be considered when submitted after the allotted five (5) business days have elapsed. The appellate authority will hold a hearing with the grieving party after reviewing the complaint, the investigation report, and the written appeal. The hearing will take place within ten (10) business days of receipt of the appeal. The appellate authority can either uphold the decision of the Officer or overrule that decision in whole or in part. The appellate authority will consult with all necessary parties in order to reach his/her decision. The appellate authority will communicate his/her decision to the complainant and respondent in writing within ten (10) business days of the date of the hearing with a copy to the Officer.

The CFO may make a request to the President to be excused from the role of appellate authority. In the event that the President excuses the CFO, or in the absence of the CFO, the President shall appoint an alternative appellate authority. The complainant or the respondent must notify the President in writing immediately if he or she believes that the appellate authority cannot be objective and fair, and must also state at that time the reasons for that belief. The President will review the objection and, in his/her sole discretion, determine whether a different appellate authority will be assigned.

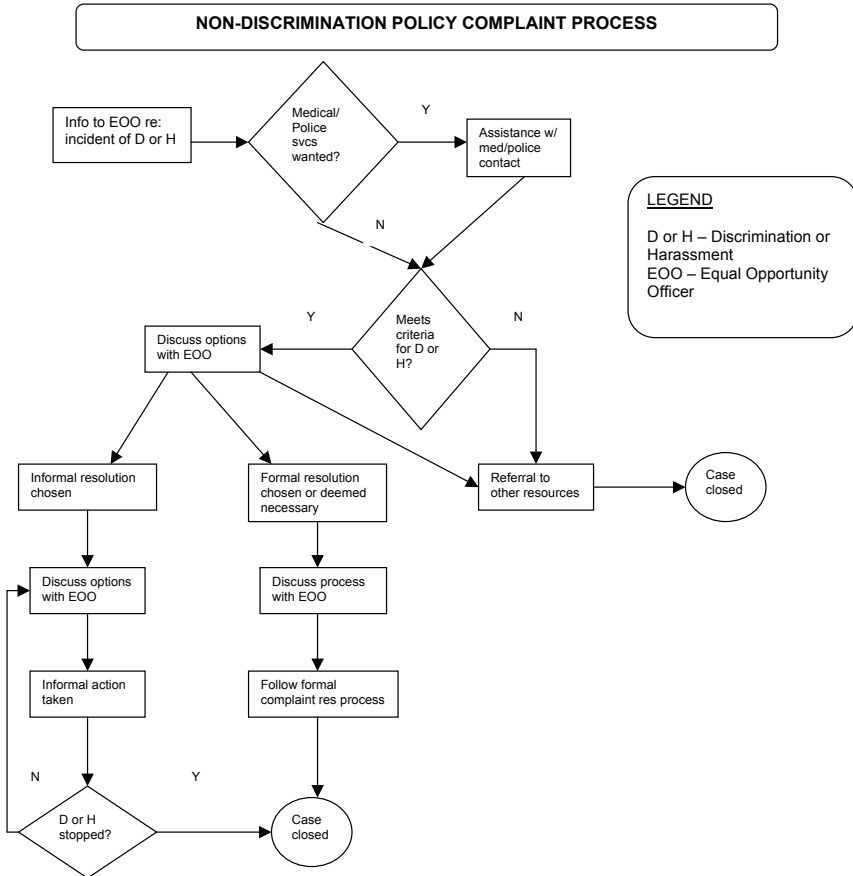
QUESTIONS or concerns about this policy should be directed to the Equal Opportunity Officer. This policy is subject to change to comply with changes in relevant laws or University operating procedures.

The most up to date information about Norwich University Equal Opportunity Contact Persons in addition to emergency contact information can be found at <http://www.norwich.edu/title-ix>

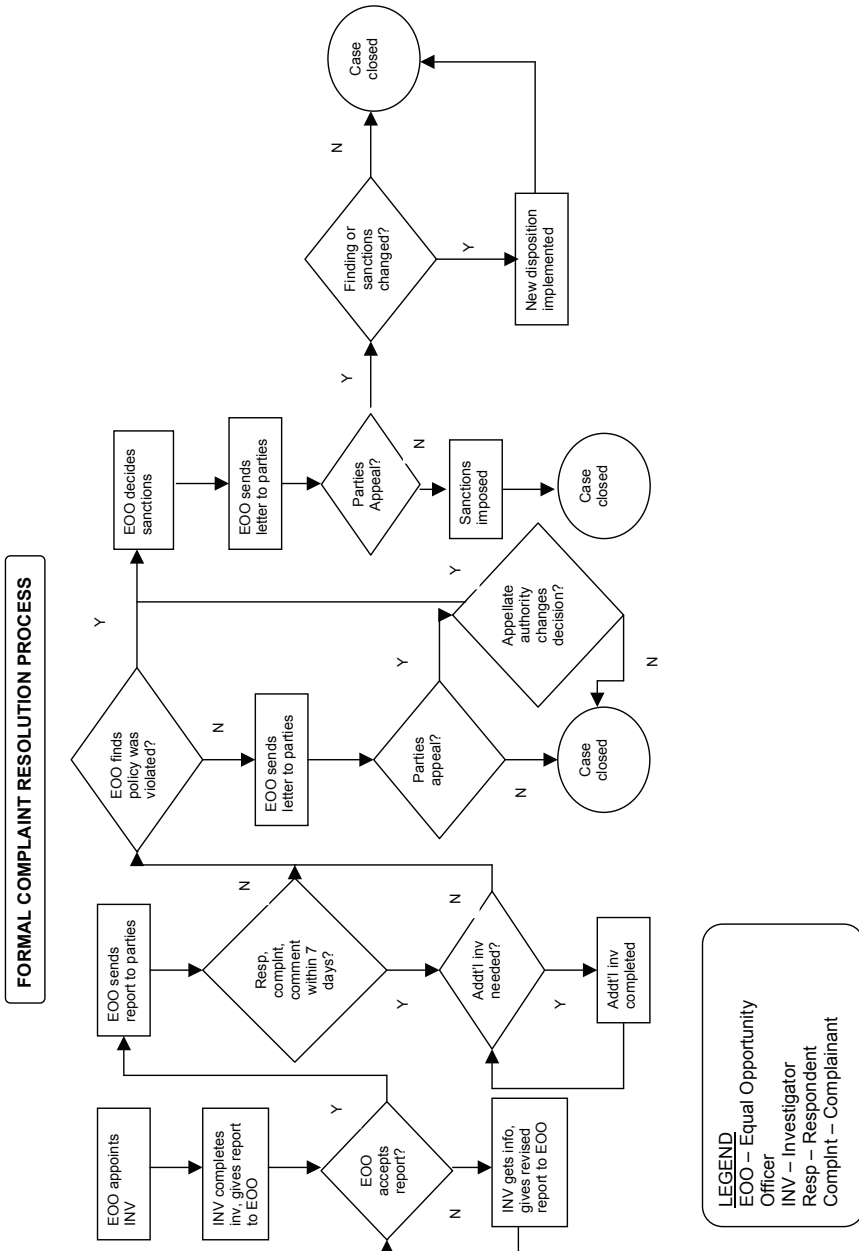
This policy supersedes all previous Norwich University Harassment or Discrimination Policies. Norwich employees and students may also contact the STATE OF VERMONT ATTORNEY GENERAL'S OFFICE, 109 State Street, Montpelier, VT 05602 (888-745-9195 or 802-828-3665 voice/TDD); and/or, the EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, John F. Kennedy Federal Govt. Ctr., Room 475, Boston, MA 02203 (617-565-3200 or 1-800-669-4000).



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