

## Equal Opportunity Grievance Policy and Procedure

*For complaints of discrimination involving employment and educational programs and activities at Mayville State University*

The purpose of these grievance procedures is to provide a fair and orderly system of review of alleged violations at Mayville State University of equal opportunity laws, regulations, and policies that prohibit discrimination based on race, color, religion, national origin, sex, marital status, sexual orientation, disability, age, or other proscribed category set forth in Federal or State regulations. The grievance procedures provide for complaints of discrimination in the area of employment and in the area of educational programs and activities.

Any person who believes that he or she is the victim of discrimination, either individually or as a member of a class, by Mayville State University in violation of the University's equal opportunity policy may institute grievance procedures as follows.

All notices and actions provided for in this policy shall be initiated and completed in a reasonable and timely manner, with due regard for the legitimate interest of the parties, and subject to the right of any part to have a deadline for any phase of the grievance procedure established by negotiation as provided in Step III. Any individual or group filing a grievance under this procedure is entitled to protection from harassment, reprisals, or retaliation as a result of having filed. Any violation of this protection may, in itself, constitute grounds for a grievance.

### **Equal Opportunity Grievance Procedure**

**Step I/II. Administrative Review of Complaint.** Any student or employee of Mayville State University or any group of such persons who feel affected by an apparent violation of equal opportunity laws, regulations, or policies shall be initially entitled to an administrative review of the complaint.

The review may be initiated by a written request to: (A) an administrator responsible for the area concerned, or (B) Mayville State University's Equal Opportunity Officer, the Director of Human Resources. Unless the Equal Opportunity Officer stipulated otherwise, this request must be made within six months of the alleged violation.

If the process begins with the administrator responsible for the area concerned, this **review** shall include:

- 1) an administrative inquiry into the facts of the case;
- 2) a discussion of the case by the administrator, with the complainant, and the party whose action is the subject of complaint;
- 3) a conclusion by the administrator regarding whether or not the case involves a violation of equal opportunity rights;
- 4) a written communication of that conclusion to the complainant and the party whose action is the subject of the complaint; and
- 5) an attempt to achieve a mutually acceptable resolution of the complaint; if that is unsuccessful.
- 6) Either the party whose action is the subject of the complaint or the complainant may make a written request to Mayville State's Equal Opportunity Officer to review the case.

If the process begins with the complaint contacting the Equal Opportunity Officer, the review shall include items 1-5 below:

- 1) an administrative inquiry into the facts of the case;
- 2) a discussion of the case by the Equal Opportunity Officer, with the complainant, and the party whose action is the subject of complaint;
- 3) a conclusion by the Equal Opportunity Officer regarding whether or not the case involves a violation of equal opportunity rights;
- 4) a written communication of that conclusion to the complainant and the party whose action is the subject of the complaint; and
- 5) an attempt to achieve a mutually acceptable resolution of the complaint.

If the process begins with the complainant contacting an administrator and is forwarded to the Equal Opportunity Officer and not resolved in the above five steps, or within 30 days of contacting the EEO/AA Officer, the complainant may request, in writing, to the EEO/AA the formation of an Appeal Board.

- 6) Either at his/her own discretion or at the written request of the complainant, The Equal Opportunity Officer shall refer the case to the Appeal Board described in Step III or to another duly constituted Mayville State hearing committee such as the Staff Personnel Board, the Standing Committee on Faculty Rights, or the Judicial Hearing Subcommittee.

**NOTE:** If, at any time, the Director of Human Resources, who is also the EEO/AA Officer at Mayville State, feels there is a conflict of interest because he/she is in the direct line of command for an employee who has a grievance, he/she should ask to be removed from his/her responsibilities as the EEO/AA Officer.

**\*Classified employees of Mayville State** should also refer to the Grievances/Appeals Procedures outlined in Section 27 of the North Dakota University System Human Resource Manual located in Section 600 of this University Policy Manual.

**\*Faculty of Mayville State** should also refer to the Official Board of Higher Education Regulations on Academic Freedom, Tenure, and Due Process found in Section 600 of this University Policy Manual.

**\*Student of Mayville State** should also refer to the Code of Student Conduct and the section on Student Rights printed in the Student Handbook.

**Step III. Appeal Board.** Upon referral by the Equal Opportunity Officer, the complaint shall be heard by a three-member Appeals Board. The Board shall be formed as detailed below:

- 1) Such written request for the formation of an Appeal Board shall include the name of the person the complainant designates to serve on the Appeal Board.
- 2) Within ten calendar days of the submission of the written request for the Appeal Board to the Equal Opportunity Officer, the party whose action is the subject of the complaint shall name a second member to the Appeal Board. If that party is unable or unwilling to choose that person, the selection will be made by the EEO/AA Officer.
- 3) These two members shall then have ten calendar days in which to jointly name a third member from within the institution, who shall serve as the chairperson of the Appeal Board.

**NOTE:** All parties serving on the Appeals Board must be from the University community (students, staff, and/or faculty). Part-time students and part-time employees are also eligible to serve on this Board.

The Equal Opportunity Officer shall see that necessary support services are provided to the Appeal Board.

**Step IV. Appeal Board Meets.** The Appeal Board shall meet within ten calendar days of the selection of its chairperson to review the complainant's written allegations, a written statement from that party whose action is the subject of the complaint, and the Equal Opportunity Officer's report: set a date for a pre-hearing meeting, if any; set a date for the formal hearing to begin, not more than twenty calendar days after the Appeal Board's first meeting unless the complainant and the party whose actions are the subject to the complaint both agree to a later date; and agree upon the format for the formal hearing. These decisions shall be communicated in writing to the complainant and party whose actions are the subject of the complaint within four calendar days.

The Appeal Board may, with the consent of the complainant and a representative of Mayville State named by the party whose action is the subject of the complaint, hold joint pre-hearing meetings with these parties in order to simplify the issues, effect stipulations of facts, provide for the exchange of documentary or other information, and achieve such other appropriate pre-hearing objectives as well make the hearing fair, effective, and expeditious.

During the proceedings the party whose action is the subject of the complaint shall be entitled to have counsel, and the complainant will be entitled to have an advisor or counsel of his or her own choice and at his or her own expense.

A record of the hearing or hearings shall be made, and the party whose action is the subject of the complaint and the complainant shall have access to it and shall be provided a copy upon request, the costs of making the record and any copies to be charged to the institution. The findings of fact and the decision shall be based solely on the hearing record.

The Appeal Board shall not be bound to strict rules of legal evidence, and may admit any evidence which is of probative value in determining the issues involved. Every reasonable effort shall be made to obtain the most reliable evidence available. The Board shall grant adjournments to enable either party to investigate evidence as to which a valid claim of surprise is made.

The complainant shall be afforded an opportunity to obtain necessary witnesses and documentary or other evidence. The party whose action is the subject of the complaint shall cooperate with the Appeal Board in securing witnesses and making available documentary and other evidence. The complainant and the party whose action is the subject of the complaint shall have the right to confront and cross-examine all witnesses. Where a witness cannot or will not appear, but the Board determines that the interests of justice require admission of his or her statement, the Board shall identify the witness, disclose the statements, and, if possible provide for interrogatories.

The Appeal Board shall conclude their formal hearings within 60 calendar days following the initial meeting of the Appeal Board.

**Step V. Written Decision.** The President shall within 30 calendar days of receiving the Appeal Board's report issue a written decision either accepting, modifying, or rejecting the Appeal Board report, including reasons for any modification or rejection. If the party whose actions were the subject of this process is found to be in violation of the University's policies, the President will outline the disciplinary action to be undertaken.

Copies of this decision will be sent to the complainant, the party whose action is the subject of the complaint, the Equal Opportunity Officer, and the persons who served on the Appeal Board.

It is the right of the party who has been found in violation to pursue the issue through other channels. The issue may become an employment grievance, etc.

It is the responsibility of the Equal Opportunity Officer to recognize the patterns of discriminatory treatment in the event that it does exist and to initiate programs to eliminate it.

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**Sponsor: Vice President of Business Affairs**