

may be accomplished electronically for either employees or students. The complete text of this policy will be maintained on the OIE website: <http://equity.nmsu.edu/>

PART 10: COMPLAINTS AND INVESTIGATION

- A. Employees and students may file an internal discrimination complaint with OIE within ~~fifteen (15)~~ninety (90) working days from the date of the incident(s). Individuals may use the NMSU Internal Discrimination Complaint Form to submit their complaint. The use of this form facilitates the gathering of information that is necessary to assess the complaint. The OIE Executive Director (or designee) may extend the filing date of a complaint beyond the ~~fifteen (15)~~ninety (90) working days if there are extenuating circumstances.
- B. OIE will provide the option to the complainant of pursuing their complaint through an informal (which may include mediation) or formal process (submittal of the complaint). The formal internal discrimination complaint will be subject to an initial review to determine if the complaint will proceed to the investigation. If the initial review finds that the complaint will not be accepted for investigation, the OIE Executive Director (or designee) will inform the complainant in writing of the decision. The complainant may appeal the decision in writing to the Executive Vice President and Provost (or designee) within five (5) working days of receipt of the notification letter.
- C. If the internal discrimination complaint is accepted, the accused individual(s) will be provided a copy of the complaint and will be extended five (5) working days to provide a written response to OIE. OIE shall initiate the process to investigate the complaint. This process includes interviewing the complainant, respondent, potential witnesses and the gathering of any related documents.
- D. All individuals are required to cooperate with any investigation in response to allegations of discrimination. Refusal to cooperate in an investigation may result in disciplinary action in accordance with university policy, rules and procedures or student social code of conduct, as applicable. ~~The completion of the investigation will be within sixty (60) days of initiation unless there are extenuating circumstances.~~ A report of inquiry will be generated by the investigator and forwarded to the Executive Vice President and Provost. Within fifteen (15) working days of receipt, the Executive Vice President and Provost (or designee) will review the report and render a decision in writing to the OIE Executive Director. The standard of evidence used for internal discrimination investigations is the “preponderance of the evidence”. Preponderance of the evidence means the greater weight of the evidence. The OIE Executive Director (or designee) will transmit the Executive Vice President and Provost’s (or designee) decision in writing to the complainant, the accused and appropriate administrators. The completion of the decision transmittal exhausts the internal process for employees, students and others or may file complaints.
- E. **Penalties:** Cases for students who are found to have violated the *NMSU Student Social Code of Conduct* and/or the *Regents Policy Manual or Administrative Rules and Procedures of NMSU* will be referred to Assistant Dean of Students. Cases for employees who are found to have violated *Regents Policy Manual or Administrative Rules and Procedures of NMSU* will be referred to Human Resource Services/Employment and Labor Relations. Sanctions for students may include action up to and including expulsion. Sanctions for employees may include employment action up to and including termination in accordance with provisions of the *Administrative Rules and Procedures of NMSU*

PART 11: GENERAL INFORMATION

- A. **Supervisors:** If anyone in a supervisory, managerial, administrative or executive role or position, such as a supervisor, department chair, or director of a unit, receives a complaint of alleged discrimination or sexual harassment, or observes or becomes aware of conduct that may constitute discrimination or sexual harassment, **that person must immediately contact OIE.**
- B. **Employees:** An employee who believes that he or she has been subjected to discrimination or sexual harassment by anyone is encouraged, but it is not required, particularly if it may be confrontational, to