

POLICY ON NONDISCRIMINATION AND AFFIRMATIVE ACTION

PURPOSE: To establish an affirmative action/nondiscrimination policy at Boise State University.

I. Foreword

A. Boise State University has always been a community-reflective institution, opening its doors to the needs of citizens and responding with academic, vocational, and special programs designed to support the local and state demands for educational opportunities.

B. The admissions policy at Boise State University and other general policies in all of its programs, as well as its personnel employment practices in relation to recruiting, hiring, training, and promotion, operate under a philosophy that no person shall be subjected to unlawful discrimination in any manner.

II. Nondiscrimination

A. Boise State University is committed to maintaining a working and educational environment which supports equal rights for all individuals. Decisions affecting the education, employment or access to services and facilities of faculty, staff, and students will be based only on merit, performance, and legitimate occupational or educational criteria.

B. It is the policy of Boise State University not to discriminate against any individual in matters of admission, employment, housing, services or in the educational programs or other activities based on non-meritorious factors including, but not limited to, discrimination on the basis of age, race, color, religion, sex, national origin, ancestry, disability, veteran status, or political affiliation.

C. It is the policy of the university not to discriminate against any individual on the basis of sexual orientation in the following areas: personnel decisions, housing, student admissions and evaluation, facilities, or in educational programs or other activities.

D. Boise State University will apply this policy consistently with its obligation to continue to provide Reserve Officer Training Corps programs under federal law. To the extent this policy conflicts with contractual obligations, state or federal laws, or regulations those obligations and laws or regulations will prevail. Nothing in this policy affects Boise State's policies implemented on the basis of

legally recognized marriage. This policy does not cover matters which are outside of the control of the university.

E. It is the responsibility of each and every member of the university community to ensure that meaningful equal employment and educational opportunity exists. The university will continue to cooperate with agencies of the federal and state governments in fulfilling its obligations.

III. Nondiscrimination Objectives

The objectives of the Boise State University Nondiscrimination Program are:

- A. To further develop and maintain equal employment and educational opportunities for all personnel and students;
- B. To eliminate all traces of unlawful discrimination in employment practices and education programs and activities. This includes, but is not limited to, discrimination on the basis of age, race, color, religion, sex, national origin, ancestry, disability, veteran status, sexual orientation, or political affiliation.

IV. Affirmative Action Objectives

The objectives of the Boise State University Affirmative Action Program are:

- A. To develop a work force which reflects an equitable employment distribution of some previously under- represented group members at all levels of employment and throughout all departments of the university based upon the availability of such groups within the appropriate labor market(s);
- B. To provide resources for affirmative action programs to implement the policy; and
- C. To meet state and federal requirements to engage in affirmative action for women, racial minorities, veterans and the disabled.

V. Legal Basis of Nondiscrimination AND Affirmative Action Program

The practice of active or passive exclusion of persons on the basis of personal characteristics not related to job competency has brought about legislation at the state and federal levels. Antidiscrimination laws and policies include specific guidelines for assuring equal employment opportunity. Some laws include specific guidelines for compliance and create boards and commissions to enforce compliance. The following are some of the applicable state and federal laws:

- A. Idaho Human Rights Act
- B. Idaho Civil Rights Act, as amended.
- C. Civil Rights Act of 1964, as amended.

- D. Age Discrimination in Employment Act of 1967, as amended.
- E. Civil Rights Act of 1968.
- F. Pregnancy Discrimination Act.
- G. Title IX of the Education Amendment of 1972.
- H. Age Discrimination Act of 1975, as amended.
- I. Equal Pay Act of 1963.
- J. Immigration Reform & Control Act of 1986.
- K. Section 1981 of the Civil Rights Act of 1866.
- L. Section 1983 of the Civil Rights Act of 1871.
- M. Civil Rights Restoration Act of 1988.
- N. Civil Rights Act of 1991.
- O. Vocational Rehabilitation Act of 1973, as amended.
- P. Vietnam Era Veterans' Readjustment Act of 1974, as amended.
- Q. The Americans with Disabilities Act of 1990.
- R. Executive Orders
 - 1. 1. Executive Order 11246, as amended by Executive Orders 11375 and 12086.
 - 2. 2. Executive Order 11141.
 - 3. 3. Executive Order 12250.

VI. Nondiscrimination and Affirmative Action Policy

- A. Dissemination of Revised/Updated Policies: Each time a substantive or procedural change is made to the Policy on Affirmative Action and Nondiscrimination, these actions will occur.
 - 1. Copies of this policy will be disseminated by the Affirmative Action Director with a cover letter from the President to all employees upon official adoption of the policy. Thereafter, each new employee shall be

given a copy of the current Nondiscrimination and Affirmative Action brochure.

2. To ensure effective implementation, deans, directors or heads of administrative units will brief their staff on the changes.
3. Policy changes will be distributed to all Boise State student organizations, the campus newspapers, and the faculty/staff newsletter.
4. This policy will be sent to each association representing university employees upon adoption of changes.

B. Ongoing Implementation of the Policy on Nondiscrimination and Affirmative Action:

1. To ensure effective implementation, deans, directors, and department chairs will explain the intent of the policy and individual responsibility during at least one staff meeting each year.
2. A statement on Nondiscrimination and Affirmative Action will be annually distributed by the Affirmative Action Director to all Boise State student organizations and published in campus newspapers and the faculty/staff newsletter.
3. Posters stating the university's commitment to nondiscrimination will be displayed throughout the entire campus directing students, staff, and faculty to the appropriate office if they have a complaint of unlawful discrimination.
4. This entire policy will be included in all supervisory and management manuals, procedure manuals, and employee handbooks. A summary of the policy will appear in the Student Handbook and Catalog each year.
5. This policy will be discussed thoroughly in ASBSU training, employee orientation, and employee training programs.
6. Special meetings will be conducted at least once a year by the Affirmative Action Director with deans and directors at all levels to explain the intent of the Nondiscrimination and Affirmative Action Policy and individual responsibility for effective implementation.
7. Community organizations, employment agencies, news media, secondary schools, universities, colleges, and recruiting sources will be informed annually about the university's policy on Nondiscrimination and Affirmative Action by the Affirmative Action Director.
8. At a minimum the Nondiscrimination and Affirmative Action Committee shall thoroughly review the policy on Nondiscrimination and Affirmative Action every third year in order to ensure its completeness and accuracy in light of changing legislation and conditions.

VII. Responsibility for Administration and Implementation

A. The President of the university has overall responsibility for the administration and implementation of the Nondiscrimination and Affirmative Action Policy. The

Affirmative Action Director will report directly to the President and will have the necessary top management support to execute the assignment.

B. In consultation with all university employing officials and the Nondiscrimination and Affirmative Action Committee, the Affirmative Action Director is responsible for overall coordination of programs directed at employing individuals from under represented groups.

C. Nondiscrimination and Affirmative Action Committee::

1. Membership: The Nondiscrimination and Affirmative Action Committee is appointed by the President of the university and shall consist of individuals representing the various constituencies of the university, including minority groups, women, students and the disabled. One member will be appointed by the Chairperson of the Faculty Senate, and two members each will be appointed by the Chair of the Association of Professional Staff, Association of Classified Employees and the Associated Student Body of Boise State University (ASBSU). The Nondiscrimination and Affirmative Action Committee shall have no less than 9 and no more than 15 voting members. The Affirmative Action Director and the Director of Human Resources are ex-officio, nonvoting members. The Chairperson of the Nondiscrimination and Affirmative Action Committee shall be a voting member. A term on the Nondiscrimination and Affirmative Action Committee shall be two years. Members may be reappointed for consecutive terms.
2. Meetings: Meetings will be held at least once monthly during the academic year to ensure continuous attention to the affirmative action purposes detailed in this policy.
3. Duties of the Nondiscrimination and Affirmative Action Committee:
 - (a) To annually review the university's Affirmative Action Plan and annual reports and to make recommendations which further the goals of affirmative action and nondiscrimination at Boise State University.
 - (b) To assist the Affirmative Action Director in establishing recommended target dates and goals for each administrative unit and academic department of the university in order to implement the Nondiscrimination and Affirmative Action Policy. These plans shall include unit recruitment plans for hiring of faculty and exempt personnel. The Committee shall review the unit plans for compliance with affirmative action and nondiscrimination every two years.
 - (c) To make recommendations for appropriate university-wide initiatives or programs which will strengthen affirmative action and nondiscrimination at Boise State University.
 - (d) To review the content of publications, handbooks, brochures, posters, letters, training programs, etc., at least every third year,

beginning in academic year 1993, to ensure compliance with current policy.

- (e) To study and investigate all matters related to affirmative action/nondiscrimination practices which relate to equal employment or education at Boise State University. Based on the results of study, the Committee shall recommend appropriate courses of action to the President.
 - (f) To serve as a grievance committee for those cases involving discrimination claims.
 - (g) To study and investigate all matters related to equal employment and educational opportunities at Boise State University. Based on the results of studies and investigations, the Committee shall recommend appropriate courses of action to the President.
4. Each dean, department head, and supervisor of Boise State University employees is responsible for full implementation of the Nondiscrimination and Affirmative Action Policy within his/her area.
 5. The Director of Affirmative Action, under the direction of the President, has the responsibility for ensuring compliance with federal and state regulations regarding equal employment and educational opportunities. The Director coordinates the Affirmative Action Program and advises the President and other administrators and faculty concerning statements of policy, the identification of problem areas, and methods of arriving at solutions to problems. The Director is an ex-officio member of the Nondiscrimination and Affirmative Action Committee. The Director has the overall responsibility of educating the university community regarding affirmative action. Other duties may be assigned from time to time by the President of the university, except the Affirmative Action Director may not serve on any hiring committees as a voting member.
 6. Duties of the Director of Affirmative Action:
 - (a) Submit an Affirmative Action Annual Report each January to the University President.
 - (b) Identify and research problem areas in relation to discrimination and develop and recommend appropriate solutions and policies to address those problems.
 - (c) Implement and conduct audit and reporting procedures and systems in accordance with established Boise State policy.
 - (d) Serve as liaison officer for Boise State University with appropriate federal and state agencies and community action groups concerned with problems of discrimination against women, minorities, and persons with a disability.
 - (e) Assist complainants in channeling their discrimination complaints through appropriate grievance channels and lend technical assistance to grievance committees.
 - (f) Conduct regular meetings with supervisors and employees and, as appropriate, with groups of students for the purpose of explaining

- the Boise State University policies and procedures related to nondiscrimination and the applicable laws and regulations.
- (g) Ensure compliance with federal and state requirements for reporting and notifications whenever appropriate.
 - (h) Coordinate activities aimed at motivating and counseling minorities, women, and disabled employees to seek training that would enhance their promotional opportunities.
 - (i) In consultation with the Nondiscrimination and Affirmative Action Committee, monitor and certify institutional practices related to advertising, recruiting, selection, hiring, interviewing, salary analysis, promotion, and dismissal for compliance with the internal affirmative action program and the external requirements of state and federal governments in accordance with Boise State University policies.
 - (j) Monitor and certify institutional practices related to student recruitment, selection, and treatment for compliance with the internal affirmative action program and the external requirements of state and federal governments in accordance with Boise State University policies.

D. Affirmative Action Planning Process:

1. The Affirmative Action Director will assist each unit in conducting a work force analysis to determine if there are under represented groups in that unit's composition. Each unit will have a work force analysis on file in the Affirmative Action Office. The work force analysis will be updated every year.
2. Based upon the work force analysis units which do not have members of under represented groups employed will create a recruitment plan which specifies how that unit will attempt to get more members of under represented groups into the hiring pool.
3. After a position is filled, the department or unit head will complete a Unit Position Vacancy Folder which reports the success of the recruitment plan for each faculty or professional position filled. The Unit Position Vacancy Folder will be maintained in the Affirmative Action Office.
4. Records and reports will be maintained and prepared in strict compliance with Executive Order 11246 as amended. Employment records, including tenure and promotion records and applications received for open positions, shall be maintained for a period of not less than two years.
5. Annually, the Affirmative Action Director will analyze the number of minority group and women employees by organizational unit and job category and progress toward affirmative action goals will be reported. Appropriate action, if any, to be taken by the university will be recommended.

E. Recruitment for Employment:

1. Applicants for employment are considered and placed with regard to their job skills, education, performance, and other bona fide occupational qualifications. Non-meritorious factors, such as age, race, color, religion, sex, national origin, ancestry, veteran status, sexual orientation, political affiliation, or the presence of any disability may not be considered, except where such is a bona fide occupational qualification or when the university is operating under an Affirmative Action Plan submitted to federal and state reviewing authorities.
2. Recruitment sources will continue to be advised in writing of the university's policy and commitment to equal employment opportunity and must acknowledge their compliance with the program.
3. The Affirmative Action Director will develop contacts with such recruitment sources as Veterans Employment Service, the Idaho State Department of Employment, the Idaho State Department of Vocational Rehabilitation, the University Placement Office, ethnic minority community groups, and women's caucuses of various professional organizations in an effort to increase the number of minority group and women applicants for all job openings. These contacts will be used in the recruitment process.
4. When recruiting for academic and administrative exempt positions, the university will advertise openings in newspapers and in publications of minority and women's groups when appropriate. Advertisements will be approved by the Affirmative Action Director prior to publication.
5. The employing officials of the university will focus on the creation of an atmosphere conducive to attracting and retaining minority group members and women.
6. Employing officials of the university will keep written records of:
 - (a) Efforts to locate minority and women candidates where these individuals are underutilized in the work force.
 - (b) Correspondence and interviews with all candidates considered for each position to be filled.
 - (c) Reasons for selecting the person who is offered a position. These records shall be submitted to the Affirmative Action Director for review and sign off approval before employment offers are extended and shall be maintained for a period of at least three years.
7. Every university employing official must be prepared to justify to the Affirmative Action Director the nonselection of any applicant.
8. The Department of Human Resources will continue to serve as the central recruiting office for all classified staff employment activities. While departments may have candidates whom they wish to consider for appointment, all such candidates must be referred to Human Resources for

subsequent referral to the department through the Idaho Personnel Commission. Records for classified staff concerning efforts to locate minority and women candidates and correspondence and interviews of candidates and certification documents shall be made available to the Affirmative Action Director and the Nondiscrimination and Affirmative Action Committee for continuous review.

F. Employment and Placement:

1. Applicants for employment are considered and placed with regard to their job skills, education, performance, and other bona fide occupational qualifications. Non-meritorious factors, such as age, race, color, religion, sex, national origin, ancestry, veteran status, sexual orientation, political affiliation, or the presence of any disability may not be considered, except where such is a bona fide occupational qualification or when the university is operating under an Affirmative Action Plan submitted to federal and state reviewing authorities.
2. All non-classified proposed position descriptions and qualifications for university employment positions will be submitted for review to the Affirmative Action Director by employing officials of the university prior to the time the employment opportunity is announced.
3. In filling vacant positions, the university will place a priority on internal promotions from among women, minorities, and persons with disabilities holding lower-level jobs.
4. Employing officials will make reasonable efforts to improve employment opportunities for disabled employees and disabled applicants for employment. These efforts may include restructuring jobs, improving access to facilities, and making equipment changes.

G. Employment Conditions: Benefits and employment terms such as salaries, accrual of seniority, and reinstatement rights shall be the same for pregnancy as for other temporary disabilities.

H. Training: The Affirmative Action Director shall be responsible for the development of appropriate training and educational programs for minorities, women, and persons with disabilities and otherwise facilitate promotional opportunities for minorities and women.

I. Termination Interview for Minorities and Women: The university employing officials should notify the Affirmative Action Director when termination of minority or women employees is anticipated. Minority and women employees who are being terminated from employment may, at the employee's discretion, be

interviewed by the Affirmative Action Director in an effort to reduce unnecessary turnover, to assist the university in becoming more responsible to the needs of individual employees, and to help attain the overall affirmative action goals of the university.

J. Facilities and Activities: The university will not discriminate against any person in the operation or maintenance of the facilities, activities, or services of the university. This includes, but is not limited to, discrimination on the basis of age, race, color, religion, sex, national origin, ancestry, veteran status, sexual orientation, political affiliation, or the presence of any disability.

K. Labor Union and Association Relations: While Boise State University is not now engaged in collective bargaining, it will include a nondiscrimination statement in any written agreement with unions or associations which in the future may be certified for representation for the purpose of collective bargaining at the university.

L. Student Placement Services: The university will not make its placement services available to firms and school systems which request that the university violate equal opportunity laws.

M. Salary Review: The university will, as a part of its annual budget preparation activities, undertake a salary review to determine if sex, race, age or other non-legitimate factors impact salary levels. A report indicating the results of this review will be forwarded to the President and Vice Presidents. Results of the Salary Study will be included in the Annual Affirmative Action Report.

N. Sexual Harassment In accordance with the EEOC guidelines the university defines sexual harassment as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or education;
2. Submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting that person;
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or creating an intimidating, hostile, or offensive working or educational environment. (See [BSU Policy 1070](#))

O. Grievance Procedure:

1. Grievance Procedures for Boise State Nondiscrimination and Affirmative Action Committee:

- 1) Purpose: To state clearly the means through which individual employees and students at Boise State University may forward and resolve grievances or complaints filed under this policy.
- (b) Rationale: All employees and students of Boise State should have the right to redress possible injustices or wrongs done to them. The accessibility, simplicity, speed, and high standards of fairness of the university's grievance procedures will encourage employees and students to choose internal means of redress and resolution rather than resorting to external means in seeking to overturn perceived injustices.
- (c) Statement of the Policy: Boise State University herewith affirms that it has procedures to deal with any grievance which may arise in matters of general personnel administration or student participation in university programs. These may involve rights provided for under the 1964 Civil Rights Act and its amendments, those rights guaranteed under Title IX of the Higher Education Act, Americans with Disabilities Act, pertinent state codes and rights provided for under the Boise State Policy or which directly affect the personal interest and well-being of an individual employee or student. These grievance procedures deal with possible discrimination that is not related to bona fide occupational qualifications such as job skills, education, and performance. This includes, but is not limited to, discrimination based on the basis of age, race, color, religion, sex, national origin, ancestry, disability, veteran status, sexual orientation, or political affiliation. These procedures do not apply to complaints of harassment. (See [BSU Policy 1070](#))
- (d) Implementation:
 - a) Coverage is as stated above.
 - 2) Grievances which are covered under provisions of the Faculty Handbook, Administrative Handbook, Classified Staff Handbook, Idaho State Statutes, or student policies and procedures remain subject to those provisions.
 - 3) Grievances which do not involve the personal interest and well-being of an individual employee or student, and which are not otherwise covered by these procedures shall be referred to the appropriate administrative officer at the university.
 - 4) On eligibility, any employee, job applicant, or student who believes that he or she has been discriminated against, as noted above, through the action of one or a group of employee(s), supervisor(s), faculty member(s), or other person or persons acting for the university, may bring an informal or formal grievance under these procedures.
 - 5) Where a dispute exists as to whether a particular matter is subject to coverage by these grievance procedures, the

Nondiscrimination and Affirmative Action Committee shall make an initial judgment on such matters of coverage. In making that judgment, the Nondiscrimination and Affirmative Action Committee will interpret the coverage of these procedures liberally. They will deny application of the procedures only where the matter in question clearly concerns issues of broad policy in which the complaining party has no direct interest, where the Committee has good reason to believe that a grievance has been brought in bad faith for political or similarly inappropriate reasons, where the grievance is covered under provisions of the items listed in item O.1.b. or in other circumstances in which use of these procedures would clearly endanger their effectiveness as an instrument for the redress of grievance.

2. A variety of grievance procedures are available to all members of the campus community: faculty, professional staff, classified staff, and students.
 - (a) Faculty members as defined by the Faculty Constitution may utilize the Faculty Grievance Procedure, [BSU Policy 4480](#), outlined in the Faculty Handbook.
 - (b) The professional staff may utilize the grievance and appeals procedure outlined in BSU 5450-C, Professional Staff Employees Grievances and Appeals, of the Administrative Handbook of Policies and Procedures.
 - (c) Classified staff members under the State of Idaho Personnel Commission may utilize the grievance procedure as outlined in the BSU Handbook for Classified Employees and [BSU Policy 7440](#).
 - (d) Students should contact either the Assistant Director of Student Activities or the Affirmative Action Director to activate the grievance procedure as outlined in the BSU Student Handbook. Should students, for whatever reason, not wish to access the above mentioned offices, they may initiate contact with their Advisor or Department Chair.
 - (e) Employees or students who feel they have been subjected to sexual harassment, any unwelcome sexual advance or verbal or physical abuse which interferes with an individual's ability to work or study on this campus may contact the Affirmative Action Director for assistance in processing a grievance under [BSU Policy 1070](#).
3. In any case involving a claim of discrimination any employee, applicant for employment or student may present his/her complaint directly to the Affirmative Action Director or to the chair of the Nondiscrimination and Affirmative Action Committee. The following procedure shall be followed by the Affirmative Action Director when handling a grievance.
 - (a) Informal Grievance:

- 1) The employee, applicant, or student may first discuss his or her grievance with the individual who is the alleged cause of the grievance.
- 2) If the employee, applicant or student is unable or unwilling to face the individual who is the alleged cause of the grievance, he/she may request to begin the informal process with the appropriate administrative official or department chairperson or with the Affirmative Action Director.
- 3) If the grievance involves a question of judgment of opinion not covered by the Nondiscrimination and Affirmative Action Committee, the appropriate administrative official and the Affirmative Action Director shall counsel with the employee or student, the supervisor, and the department head to resolve the grievance, if possible.
- 4) 4) If the grieving party chooses not to try the informal procedure, if the alleged perpetrator is unwilling to participate in the informal procedures, or if the informal procedure ends with no agreement, the grieving party may proceed to mediation or filing a formal grievance.

(b) Mediation:

- 1) The employee or student may choose to have the grievance mediated by a trained mediator.
- 2) Procedures for mediation:
 - 1) Submit to the Director of Affirmative Action a written request for mediation along with a description of the grievance and the name of the alleged perpetrator.
 - b) The Director of Affirmative Action will contact the alleged perpetrator to notify them of the complaint and explain mediation.
 - c) If both parties agree to try mediation, a mediator will be chosen from a list of trained campus mediators. The mediator must be acceptable to both parties. The mediator selected will be notified by the Affirmative Action.
 - d) Within five working days of the agreement on a mediator, the mediator will convene the first mediation session.
 - e) If the parties are able to reach agreement through mediation in a reasonable amount of time (to be decided by the mediator), the agreement will be put in writing and signed by the parties. The original copy shall be kept on file in the Affirmative Action Office.
 - f) If the parties are not able to reach agreement through mediation in a reasonable amount of time

(to be determined by the mediator), the mediation will be closed with a letter to that effect being filed with the Affirmative Action Office.

- 3) If the grieving party chooses not to try mediation, if the alleged perpetrator is unwilling to participate in mediation, or if mediation ends with no agreement, the grieving party may proceed to filing a formal grievance.

(c) Formal Grievance:

- 1) If the aggrieved employee or student's grievance has not been resolved after informal steps, or mediation, or if he or she does not wish to use informal procedures, he or she may submit a request, in writing, for a formal investigation and/or grievance hearing to the Nondiscrimination and Affirmative Action Committee.

2) Procedures:

- a) File a written request for a formal investigation/hearing with the Director of Affirmative Action or the Chair of the Nondiscrimination and Affirmative Action Committee, stating the nature of the grievance, who the alleged perpetrator is and remedy needed to correct the situation.
- b) The Nondiscrimination and Affirmative Action Committee will accept or not accept the request. The Committee will determine if the complaint falls within the guidelines of the Committee responsibility as defined by this policy. If the request is not accepted by the Committee, the Nondiscrimination and Affirmative Action Committee chairperson shall state the reasons in writing. If accepted, the chairperson will convene the Nondiscrimination and Affirmative Action Committee within 10 working days. A copy of the grievance will be forwarded to the accused party immediately upon approval of the grievance by the Committee.
- c) The Nondiscrimination and Affirmative Action Committee shall conduct a formal investigation/hearing and shall reach a decision on recommendations in a timely manner after the close of the investigation or hearing. The procedures for hearings shall be:

3.1 The Chairperson will advise each party of the date, time, and place of the hearing.

3.2 The Committee may call such witnesses as it deems germane to the grievance.

3.3 The Committee may request additional written statements and documents from each party.

3.4 The Committee will request the names of witnesses to be brought by each party and will request the witnesses to appear at the date, time, and place of the hearing.

3.5 All parties are entitled to be accompanied by a counselor of their choice.

3.6 The Committee reserves the right to close the hearing to the public and other witnesses.

- d) At any time during the investigation and/or hearing the complainant may withdraw his/her complaint. In that event, the proceedings will be terminated.
- e) The Committee chairperson, at the direction of the Nondiscrimination and Affirmative Action Committee, shall recommend appropriate action to the President based on the findings of the investigation and/or hearing. A copy of the findings and recommendations will be given to the parties of the grievance as well.

3) Appeal:

- a) The decision of the committee may be appealed in writing to the President within five (5) working days after receiving the decision.
- b) The President in turn will be expected to relay his decision on the appeal in writing to the aggrieved employee or student and the alleged perpetrator within 10 working days, with a copy to the Director of Affirmative Action and the Chair of the Nondiscrimination and Affirmative Action Committee.
- c) With regard to formal grievance appeals, the decision of the President shall be final unless
 - 1) the grieving employee is a classified employee in which case that individual may utilize the grievance procedure available to them; or

- 2) The decision of the President is for termination, in which case the employee would have full right to due process as provided under university policy, State Board of Education policy, and Idaho Code.
 - 4) Nothing in this directive supersedes or amends grievance procedures set forth by valid contractual agreement.
 - 5) The grievance procedures spelled out above are in no way intended to limit the rights of employees or students under applicable federal and state laws.
- (d) Retaliation: Any retaliatory action of any kind taken by an employee of the university against another employee, applicant, or student of the university as a result of that person's seeking redress under these procedures, cooperating in an investigation, or other participation in any proceedings under these procedures is prohibited and shall be regarded as a separate and distinct grievable matter under these procedures, including the same range of sanctions applicable for the original grievable action(s).
- (e) Confidentiality: Confidentiality in the investigation is of the utmost importance to protect complainant and the university. Lack of confidentiality may lead to damaged careers/reputations and may undermine confidence and trust in the university.