



INNOVATION FOR A HEALTHIER PLANET

**UNIVERSITY OF NEW ENGLAND’S NONDISCRIMINATION GRIEVANCE PROCEDURE, POLICY AND NOTICE OF NONDISCRIMINATION FOR EMPLOYEES**

(DRAFT FALL 2024.) Please refer to <https://www.une.edu/title-ix-civil-rights-compliance> for the most current Policy.

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# **GRIEVANCE PROCEDURE FOR COMPLAINTS OF DISCRIMINATION BY EMPLOYEES**

## ***(A) Policy Statement***

This Policy applies to all forms of discrimination, which includes harassment and retaliation (other than sex discrimination which is covered by UNE's Title IX Grievance policies). The University of New England ("the University") is committed to maintaining a fair and respectful environment for living, work, and study. To that end, and in accordance with federal and state law and University policy, the University prohibits any member of the faculty, staff, administration, trustees, student body, vendors, volunteers, or visitors to campus, whether they are guests, patrons, independent contractors, or clients, from harassing and/or discriminating against any other member of the University community because of that person's race, sex, sexual orientation, gender identity and/or expression, familial status, pregnancy, ethnicity or national origin, religion, age, creed, color, genetic information, physical or mental disability, HIV status, or status as a veteran.

Every member of this University community is expected to uphold this Policy as a matter of mutual respect and fundamental fairness in human relations. Every employee of this institution has a responsibility to behave in accordance with this Policy as a condition of employment. Merit and productivity, free from prohibited bias, will continue to guide decisions relating to employment. Employees who engage in conduct prohibited under this Policy may be subject to disciplinary action, including termination of employment.

In addition, the University will provide remedies to a Complainant designed to restore or preserve equal access to the University's education programs or activities where a determination of responsibility has been made against a Respondent. No person will be penalized for good faith utilization of or participation in channels available for resolving concerns dealing with prohibited discrimination, harassment, or retaliation.

## ***(B) Clery Reporting***

Pursuant to the Clery Act, the University includes statistics about Clery Act crimes in its daily crime log and Annual Security Report and provides those statistics to the United States Department of Education; in all these instances, the information is reported in a manner that does not include personally identifying information about persons involved in an incident (including incidents disclosed to Confidential Resources). The University will also issue a timely warning to the community for reports of Clery-defined conduct that may constitute a serious and ongoing threat, as outlined in the Annual Security Report.

<https://www.une.edu/studentlife/security/safety-reports>

## Compliance Inquiries

Inquiries regarding compliance with this Policy may be directed to any of the following:

<b>Angela Shambarger</b> <i>Senior Director for the Office of Title IX and Civil Rights Compliance/ Title IX Coordinator</i>	207-221-4554	<a href="mailto:ashambarger@une.edu">ashambarger@une.edu</a>	11 Hills Beach Road, Biddeford, ME 04005)
<b>Bobbie Kallner</b> <i>Associate Vice President of Human Resources &amp; Chief Human Resources Officer</i>	207-602-2339	<a href="mailto:bkallner@une.edu">bkallner@une.edu</a>	11 Hills Beach Road, Biddeford, ME 04005)
<b>Office of Civil Rights, Department of Education</b>	617-289-0111	<a href="mailto:OCR.Boston@ed.gov">OCR.Boston@ed.gov</a>	8th Floor 5 Post Office Square, Boston, MA 02109-3921
<b>The Maine Human Rights Commission</b>	207-624-6290	<a href="mailto:info@mhrc.maine.gov">info@mhrc.maine.gov</a>	19 Union Street, 2nd Floor Augusta, ME 04330
<b>The U.S. Equal Employment Opportunity Commission</b>	202-663-4900	<a href="mailto:info@eeoc.gov">info@eeoc.gov</a>	131 M Street, NE, Washington, D.C. 20507

### **I. SCOPE**

The University has adopted a grievance procedure that seeks to provide for the prompt and equitable resolution of reports of discrimination Complaints made by UNE employees, including student employees, or other individuals who are participating or attempting to participate in its UNE's Education Program or Activity or by the Director, alleging any action that would be prohibited by state or federal law.

For the purposes of this Policy, discrimination includes harassment and retaliation.

Generally, discrimination is treating similarly situated people differently on the basis of race, familial status, pregnancy, ethnicity or national origin, religion, age, creed, color, genetic information, physical or mental disability, HIV status, or status as a veteran without appropriate legal justification.

Generally, discriminatory harassment is unwelcome verbal or physical conduct that is objectively and subjectively offensive, is severe or pervasive, and is based on a person's race, familial status, pregnancy, ethnicity or national origin, religion, age, creed, color, genetic information, physical or mental disability, HIV status, or status as a veteran when:

- Such conduct has the purpose or effect of unreasonably interfering with the individual's work or educational performance;
- Such conduct creates or has the intention of creating an intimidating, hostile, or offensive working

and/or learning environment and/or

- Such conduct unreasonably interferes with or limits one's ability to participate in or benefit from an educational program or activity.

Generally, retaliation means intimidation, threats, coercion, harassment, or discrimination against any person by UNE, a student, or an employee or other person authorized by UNE to provide aid, benefit, or service under UNE's education program or activity, for the purpose of interfering with any right or privilege secured by this Policy, or because the person has reported information, made a complaint, testified, assisted, or participated in a proceeding, or hearing under this Policy, including in an informal resolution process, in grievance procedures, and in any other actions taken by UNE under this Policy. UNE does require employees or other persons authorized by UNE to provide aid, benefit, or service under UNE's education program or activity to participate as a witness in, or otherwise assist with, an investigation, proceeding, or hearing under this part. UNE prohibits all retaliation, including peer-to-peer relations, in all of its education programs and activities, including the workplace.

### ***(A) Applicability***

This Policy applies to allegedly aggrieved employees who were participating or attempting to work or otherwise participate in UNE's education program or activity at the time of the alleged discrimination. The standards for behavior and prohibitions covered by this Policy apply broadly to the entire University community, including all trustees, employees, the student body (graduate and undergraduate), vendors, volunteers, alumni, prospective students, prospective employees, and visitors to campus. This includes guests, patrons, independent contractors, or clients of the University of New England. This Policy prohibits discrimination in any University education program or activity, which means all academic, educational, extracurricular, athletic, and other programs.

The term "education program or activity" includes all University operations, including locations, events, or circumstances over which the University exercised substantial control over both the Respondent and the context in which the conduct occurs, and any building owned or controlled by a student organization that is officially recognized by the University.

Other policies may govern reported conduct in place of this Policy.

- When the reported conduct by an employee involves sex discrimination, which includes sex-based harassment covered under Title IX and the University's [University Of New England's Title IX Grievance Policy For Employees](#) the investigation and grievance process outlined in that policy will be used and can be found <https://www.une.edu/title-ix> or in Appendix J of the Personnel Handbook located <https://www.une.edu/hr/policies>.
- When a student's reported conduct involves discrimination toward an employee, the investigation and grievance process set forth in the [University Of New England's Title IX Grievance Policy For Students](#) will be used and can be found at <https://www.une.edu/title-ix>.

Whatever process is followed, any behavior by either Party during the investigation or adjudication process that might constitute a violation of any UNE policy or code of conduct may be adjudicated at the same time by the body adjudicating the underlying complaint.

### ***(B) Jurisdiction of Policy***

This Procedure applies to all forms of discrimination occurring under the University's Education Program or Activity. Generally, the jurisdiction of the University to take disciplinary action shall be limited to conduct which occurs on University premises, while working remotely, at off-campus University sponsored, supervised, or related activities, at affiliated and clinical sites, during internships, with respect to student teaching, during applied learning, such as, but not limited to, online course experiences, on the UNE international campuses, and on Study Abroad Programs.

However, conduct that occurs outside of the workplace and off campus may violate this Policy and fall within the jurisdiction of the University. For example, any outside of the workplace and off-campus conduct that contributes to the alleged discrimination that disrupts the work or educational environment and/or the mission or objectives of the University or that results in another employee or student being excluded from participating in or enjoying the benefits of UNE's education program or activity may be acted upon by the University. Information posted or shared online, including social media, that violates the University Employee Code of Conduct, the Faculty Handbook, the Personnel Handbook, or any other applicable UNE policy and/or creates a potentially hostile learning or work environment may also be acted upon by the University.

The University has an obligation to address a Hostile Environment under its Education Program or Activity, even when some conduct alleged to be contributing to the Hostile Environment occurred outside UNE's Education Program or Activity or outside of the United States. UNE's Senior Director for Title IX and Civil Rights Compliance will work with all Complainants to assess such Complaints that may fall under these criteria and direct to appropriate University Policies and Procedures that may apply if this Grievance Procedure does not. UNE will communicate all such decisions in writing to the Complainant. Any such dismissals shall be subject to appropriate appeal rights under this Grievance Procedure as outlined in the Dismissals section.

The University reserves the right to complete any investigation and/or disciplinary process started while a student is enrolled, even if a student withdraws, graduates, or otherwise leaves the University. Similarly, UNE reserves the right to conduct any employment-related investigation.

### ***(C) Academic Freedom and Freedom of Expression***

The University is committed to protecting, maintaining, and encouraging both freedom of expression and academic freedom of inquiry, teaching, service, and research. However, these freedoms come with a responsibility that all members of the education community benefit from these freedoms without intimidation. In recognition and support of academic freedom for faculty in the pursuit of teaching, academic freedom, and freedom of expression shall be strongly considered in investigating and reviewing complaints and reports of discrimination. However, raising issues of academic freedom and freedom of expression will

not excuse behavior that constitutes a violation of the law or this Policy.

## II. REPORTING DISCRIMINATION TO THE INSTITUTION

### ***(A) Reporting Options***

#### ***Who can I report a Complaint to?***

The Senior Director of Title IX and Civil Rights Compliance/Title IX Coordinator (Director) is the individual designated by the President with responsibility for providing education and training about discrimination to the University community, and for receiving and investigating reports and complaints of discrimination, harassment, and retaliation in accordance with this Policy.

Anyone who reports what they believe constitutes an incident of discrimination as defined above will be assisted in understanding their reporting and complaint options and will not be forced to make any type of report or complaint. Any person making a report may be asked, but is not required, to put their report in writing. While some UNE employees are mandated reporters, anyone may report under this Policy regardless of whether the reporting person allegedly experienced the violation or is a member of the University community. Reports can be made in person, by mail, by telephone, online, or by electronic mail, using the contact information listed for the Senior Director of Title IX and Civil Rights Compliance/Title IX Coordinator or by any means that results in the Director receiving the person's verbal or written report. A report may be made at any time (including during non-business hours) by using the telephone number, email, online reporting link (<https://www.une.edu/title-ix/reporting>), or mailing address listed for the Director or other persons familiar with this Policy, including:

#### **Angela Shambarger**

*Senior Director of Title IX and Civil Rights Compliance*

[ashambarger@une.edu](mailto:ashambarger@une.edu) | 207-221-4554

The Office of Title IX and Civil Rights Compliance

Human Resources Office (both campuses)

11 Hills Beach Road, Biddeford, ME 04005 and

716 Stevens Avenue, Portland, Maine, 04103.

#### Deputy Coordinators with Responsibilities for Student or Employee Conduct

<b>Ray Handy</b>	Associate Dean of Student Affairs	207-221-4213	<a href="mailto:rhandy@une.edu">rhandy@une.edu</a>	For complaints involving students
<b>Shaylah Kelly</b>	Assistant Director, Employee Relations & Leadership Development	207-602-2524	<a href="mailto:skelly14@une.edu">skelly14@une.edu</a>	For complaints involving employees

The Associate Vice President of Human Resources & Chief Human Resources Officer for the University of New England is Bobbie Kallner, 207-602-2339, [bkallner@une.edu](mailto:bkallner@une.edu), Human Resources Office, both campuses, 11 Hills Beach Road, Biddeford, Maine 04005 and 716 Stevens Avenue, Portland, Maine, 04103.

The Director/ Deputy Title IX Coordinators will:

- Provide oversight of any investigation of claims of discrimination, harassment, or retaliation in violation of this Policy;
- Be available to assist any individual in accessing the resources of the University or the community in the event of any complaint under this Policy;
- Assist anyone who wishes to report a crime to local law enforcement;

At the request of an employee Complainant, the information they provide will be kept as private as possible, but the University may not be able to fully maintain confidentiality in certain circumstances. Employee records will be maintained in accordance with employee privacy laws. Individuals may also file anonymous reports that can be anonymous on the University's Title IX and Civil Rights Compliance webpage using the anonymous reporting feature here: <https://www.une.edu/title-ix/reporting>. Individuals filing an anonymous report must understand that while UNE will act on such reports, UNE's investigation may be impacted by the fact that a report is anonymous.

**Note:** If an employee has personally been subject to conduct that reasonably may constitute discrimination under Title IX or any institutional policy or this Grievance Procedure, these requirements do not apply to an employee reporting a personal Complaint.

### ***Provision of Information***

Any employee of the University who is responsible in any way for student welfare, or who a student could reasonably believe is responsible for student welfare, and who is not by law, licensure or University regulation designated as a confidential resource, must forward any report of discrimination to the Senior Director of the Office of Title IX and Civil Rights Compliance or a Deputy Title IX Coordinator as soon as possible after receiving it. This definition of "responsible employee" includes faculty, coaches, administrators, security officers, advisors, staff, RAs, and other student employees involved in promoting student welfare. Similarly, an employee who has authority or management over other employees and becomes aware of a concern of discrimination involving a supervisee is expected to report this to the Senior Director of the Office of Title IX and Civil Rights Compliance or the appropriate Deputy Title IX Coordinator as soon as possible after receiving it.

If a responsible employee receives or becomes aware of a report or incident covered by this Policy, if possible before hearing it fully, the responsible employee should be clear with the Complainant that (1) they are not a confidential resource, if they are not so designated, and (2) they are obligated to report any

incident to the Senior Director of the Office of Title IX and Civil Rights Compliance.

### ***Timeline for Reporting a Complaint of Discriminatory Harassment***

Complaints and reports of discrimination or discriminatory harassment should be reported as soon as possible after the incident(s) in order to be most effectively investigated, though there is no time limit on reporting violations under this Policy. If a Respondent is no longer affiliated with the University (as a student or employee), the University may still provide reasonably available supportive measures to the Complainant, assist the complainant in identifying external reporting options, may investigate and adjudicate the alleged misconduct, and take other appropriate action to address the reported conduct.

### ***Format of the Complaint***

Complaints can be an oral or written request to the University that objectively can be understood as a request for UNE to investigate and make a determination about alleged discrimination at the institution.

### ***(B) Disability Accommodations***

This Grievance Procedure does not alter any institutional obligations under applicable federal state, and/or local disability laws, including the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973, among others. Parties may request reasonable accommodations for disclosed disabilities to the Senior Director of the Office of Title IX and Civil Rights Compliance at any point before or during this Grievance Procedure that do not fundamentally alter the Procedure. The Director will not affirmatively provide disability accommodations that have not been specifically requested by the Parties, even where the Parties may be receiving accommodations in other institutional programs and activities.

If the Complainant or Respondent discloses a disability, the Director or designee may consult, as appropriate, with the Assistant Director of Benefits and Leave in Human Resources to provide support to employees with disabilities to determine how to comply with applicable law including, without limitation, Section 504 of the Rehabilitation Act of 1973 in the implementation of any Supportive Measures, or any other reasonable accommodations requested during the Grievance Procedure.

### ***(C) False Claims***

It is a violation of this Policy to knowingly make false statements or to knowingly submit false information during the grievance procedure covered under this Policy. In such instances, the parties may be subject to disciplinary action. The level of discipline will depend on the severity of the false claim or information as well as professional codes that may apply to the person and may include, but is not limited to, probation, suspension, or termination.

Failure to prove a claim of discrimination, harassment, or sexual misconduct does not constitute proof of a false and/or malicious accusation.



### ***(D) Retaliation***

When UNE receives information about conduct that reasonably may constitute retaliation, UNE will investigate and apply this Policy as appropriate. Upon receiving a complaint alleging retaliation, UNE will initiate the grievance procedures under this Policy, or, as appropriate, an informal resolution process. If the complaint is consolidated with a complaint of sex-based harassment involving a student complainant or student respondent, the grievance procedures initiated by the consolidated complaint will comply with the [University Of New England's Title IX Grievance Policy For Employees](#).

If you believe that you or another person has been the subject of retaliation, please contact the Senior Director or one of the Designated Deputy Title IX Coordinators as soon as possible.

### ***(E) Sanctions for Violation of this Policy***

Any Party found responsible for violating this Policy may be subject to disciplinary sanctioning. Sanctions are determined on a case-by-case basis.

Any student found responsible for any element of this Policy will be referred to and disciplined in accordance with the University of New England Student Conduct Code as outlined in the [University Student Handbook](#), an applicable academic professional code, and any other applicable policy.

Any employee of the University found responsible for any element of this Policy will be referred to and disciplined in accordance with the University Personnel Handbook, the Faculty Handbook, and any other applicable policy.

## **III. GRIEVANCE PROCEDURE FOR DISCRIMINATION**

### ***(A) Initial Assessment Upon Receipt of a Report and Filing of Complaint by the Senior Director of Title IX and Civil Rights Compliance***

When the Senior Director of Title IX and Civil Rights Compliance or their designee, (hereafter "Director"), receives a report of a potential violation of this Policy, the Director will reach out to the person allegedly aggrieved to explain options for proceeding with a complaint, the potential for informal and formal resolution of a complaint, and the availability of supportive measures. At that time, the Director will conduct an initial assessment of the reported information. The initial assessment seeks to gather information only to determine whether this Policy applies and what form of resolution is reasonably available and appropriate. The initial assessment is not an investigation of responsibility. The initial assessment may also include a determination as to whether a timely warning pursuant to the Clery Act is necessary to protect the safety of the Complainant or any other individuals.

In receiving a report under this Policy, the University will make all reasonable efforts to protect the privacy rights of the Complainant, the Respondent, and the witnesses in a manner consistent with the University's legal obligations to investigate, to take appropriate action, and to comply with any discovery or disclosure obligations required by law. A Complainant can request verbally or in writing to have their report processed

as a “Formal Complaint” through the process outlined within this policy.

The University will, whenever possible, honor the Complainant’s wishes with respect to supportive measures and seek to respect the Complainant’s autonomy in making a determination regarding how to proceed. The University, however, reserves the right to take whatever action it deems necessary to enforce this Policy, which is intended to assist UNE in preventing and remedying discrimination, including hostile environments. For example, whether a hostile environment exists is not necessarily dependent only on the expressed concerns of the Complainant.

Any request for confidentiality must be balanced against the University’s obligation to provide a safe and non-discriminatory environment for the entire University community. The University may also be severely limited in its ability to adjudicate a claim and take action against a Respondent if strict confidentiality is maintained. The Director, the Associate Vice President of Human Resources, the Director of Safety and Security, the Chair of the CARE Team, and/or their designee(s) shall be responsible for evaluating all requests for confidentiality and will consider the severity of the alleged conduct, the ages of the parties, any pattern of misconduct, and the rights of the Respondent in assessing whether such a request can be honored.

Where a risk of imminent harm to an individual or others or a threat to the physical health and safety of the campus is determined to exist, the University may need to take immediate action upon receipt of a report under this Policy, the Director may need to initiate a formal complaint against a Complainant’s wishes. In such cases, the Director will notify the Complainant and keep the Complainant informed of the status of the investigation and resolution of the complaint at reasonable intervals.

As part of the initial assessment phase, the Director will determine whether the alleged conduct, if true, falls under this Policy. If the alleged conduct falls outside of this Policy, the University will then assess whether the alleged conduct, if true, would amount to a violation of another policy. If the complaint proceeds to a formal investigation under either this Policy or another policy and the investigation reveals that the wrong policy was initially applied, the conduct was incorrectly placed within either Policy, the University will transfer the complaint to the appropriate process for resolution or dismiss the complaint, as appropriate.

### ***(B) Consolidation of Complaints***

UNE may consolidate Complaints of discrimination against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one Party against another Party, when the allegations of discrimination arise out of the same facts or circumstances. When more than one Complainant or more than one Respondent is involved, references below to a Party, Complainant, or Respondent include the plural, as applicable.

### ***(C) Allegations Potentially Falling Under Two Policies***

If the alleged conduct, if true, includes conduct that would constitute a violation of this Policy and conduct that would constitute a violation of another policy, the Non-Discrimination Grievance Process in this Policy will be applied in the investigation and adjudication of all of the allegations, unless, as provided above, the

allegations include claims of sex discrimination.

### ***(D) Providing Interim or Supportive Measures***

The University may be imposed to remedy or stop further discrimination during the investigation of any alleged violations of this Policy.

Below are examples of Interim and Supportive Measures that may be appropriate:

- Assistance in arranging rescheduling assignments and extensions of deadlines;
- Assistance in requesting accommodations through the appropriate office, if the Complainant or Respondent qualifies as an individual with a disability;
- Escort and other safety planning steps;
- Increased security and monitoring of certain areas of the campus;
- Mutual imposition of a "no contact order," an administrative remedy designed to curtail contact and communications between two or more individuals;
- Voluntary leave of absence;
- Referral to resources to assist in obtaining a protective order;
- Training and education programs related to discrimination;
- Emergency removal of a Respondent
- Paid or unpaid administrative leave for the Employee Respondent;
- Withdrawal from sponsored research projects;
- Exclusion from specified activities or areas of campus;
- Prohibition from participating in activities or representing the University in any capacity; or
- Any other protective restrictive measure that can be used to achieve the goals of this Policy. Any other remedial Supportive Measure.

The University will also work in good faith to implement the requirements of judicially issued protective orders and similar orders, to the extent that doing so is within its authority.

### ***(E) Applicable Procedures for Employees Under This Policy***

#### **Informal or Alternative Resolution**

The Director and the Affirmative Action Officer/Associate Vice President of Human Resources have considerable training and expertise in discussing concerns about discrimination and harassment and can serve as resources for people seeking to informally resolve concerns.

#### **Complaint**

Once information has been received by the Affirmative Action Officer/Associate Vice President of Human Resources (CHRO) or the Senior Director of Title IX and Civil Rights Compliance (Director) such that an investigation is warranted, the Affirmative Action Officer/Associate Vice President of Human Resources is expected to oversee the investigation of complaints involving employees, and the Senior Director of Title IX and Civil Rights Compliance is expected to oversee the investigation of complaints involving students.

The CHRO or the Director or their designee shall immediately begin an investigation. The purpose of the investigation is to determine whether, based upon a preponderance of the evidence, a violation of this policy has occurred. The complaint officer or designee has an obligation to conduct a complete and objective investigation in a timely fashion, maintaining appropriate confidentiality when possible and working to provide the person accused of misconduct with a reasonable and fair opportunity to respond to the allegations.

At the conclusion of the investigation, the active complaint officer, in consultation with the other complaint officer, will submit a written report of findings and recommendations to the appropriate Senior Administrator. That Senior Administrator shall review the report and take corrective action as appropriate. The Senior Administrator shall consult with the CHRO and may consult with their direct supervisor before any decision on action is made. Upon completion of the proceedings, the parties will be promptly informed of the results of the investigation and the outcome of the proceedings to the extent permitted by law.

UNE prohibits retaliation against any employees or applicants who complain about discrimination, oppose any discriminatory acts, or participate in the investigation of such complaints.