

Complaints and Grievance Procedures

NHU has established procedures for grievances and complaints to provide a means for resolving alleged unfair or improper action by any member of the academic community, including students. Forms are available at the Office of the Provost on the Second Floor, Sobrato Hall, (408) 273-2693 as well as with the Office of Human Resources, Third Floor, Sobrato Hall, (408) 273-2711.

The following procedures reflect NHU's commitment to resolve grievances fairly and expeditiously. These procedures are intended to promote the voluntary resolution of the difficulties between employees (faculty and staff), students, and the institution. The procedures may also be used to resolve any dispute between faculty, staff, and students, except for matters expressly covered under other procedures. Finally, no person, in any way, shall be penalized for pursuing remedies established by the procedures.

Informal Grievance Procedure

Any NHU employee, whether faculty, administrative, clerical, service, and custodial staff, or student should first pursue a grievance through each appropriate administrative or organizational level to and including the President of the University.

Aggrieved individuals should make their grievance known to the individual causing the grievance within 14 calendar days of the action/incident, or the last in a series of actions/incidents, being grieved. The aggrieved should keep a written record of the date on which he/she initiated discussion of the grievance with the individual causing the grievance, and all subsequent conferences regarding the grievance with individuals in the administrative hierarchy.

Grievances involving sexual or racial harassment may be initiated up to 45 calendar days after the incident or last incident in a series of incidents.

Formal Grievance Procedure

- Who may initiate a formal grievance?
 - Any NHU employee or student who has pursued a grievance through the administrative levels up to the President, concerning academic or non-academic matters.
- What kinds of matters can be brought to a formal grievance?
 - A perceived lack of fair process according to NHU decision-making procedures regarding promotion, salary, hiring, firing, etc.
 - Any behavioral problems regarding religious, racial, or sexual harassment
 - Any alleged violation of public or private property rights
 - Any alleged violation of civil law
 - Prejudiced or capricious decision in the academic evaluation of a student's performance
 - Any act or threat of intimidation or harassment
 - Any act or threat of physical aggression
 - Any arbitrary action or imposition of sanctions without proper regard to due process as specified in NHU procedures
 - Any violation of student rights

If students feel that they have been subjected to an unjust action or denied their rights by a member of the academic community, they have the right to file a formal grievance.

Grievance action may be initiated by a student against another student, an instructor, a manager, or a member of the classified staff.

- How is formal grievance initiated?
 - The grievant shall complete the *Petition to Initiate a Formal Grievance* form and file it with the Provost within seven calendar days after the date the employee or student is notified of the last administrative action in the case.
 - Similarly, if the Provost/Vice President is requesting a Grievance Hearing, she or he must make the request within seven calendar days after the date on which the employee or student is notified of the last administrative action in the case.
 - In cases of sexual or racial harassment, the grievant may file the petition directly with one of the Grievance Officers and may initiate the formal grievance up to 45 calendar days after the last action/incident.
- How is the grievance officer to hear the grievance determined?
 - The grievant shall select the Grievance Officer from the panel of Grievance Officers available indicated by the Provost. A Grievance Officer may abstain from taking a particular grievance because of conflict of interest. If the grievant does not wish to select the Grievance Officer, the President will appoint one to hear the case.
- What is the process?
 - **Gathering of Documentation:** Within 15 calendar days after the request is received by the Provost and not less than 10 calendar days prior to any hearing, the Grievance Officer furnishes the grievant a statement of the reason for the disputed action and copies of all materials considered by the President (and all other persons who have acted in the case).

When the Provost requests the Grievance Hearing, all materials on which the Provost bases the request for the hearing shall be furnished to the employee or student within 15 calendar days after the President's request is received by the Office of Provost and at least 10 calendar days prior to any hearing.

- **Interviews:** The Grievance Officer will review all available documentation as set out above, and then interview the grievant. In a separate interview, the Grievance Officer will interview the opposing side. At this point and later, the Grievance Officer may consult with the other Grievance Officers on the subject case.
- **The Hearing:** The Grievance Officer will then conduct a hearing at which both parties will be present. The Grievance Officer may decide whether to act as a mediator or arbitrator. More than one hearing may be necessary.
- **Mediation:** The Grievance Officer should try mediation first in settling relatively less serious issues.
 - Concerned parties reach a mutually acceptable solution to the case through mediation.
 - The Grievance Officer then writes a report of the outcome and submits it to the Provost.
 - In more difficult situations, mediation can be used in narrowing the issues and defining clearly the substance of the complaint. The Grievance Officer acting as the mediator

will then write a report of the outcome and make recommendations where necessary to be given to the Provost and Grievant.

- **Arbitration:** The Grievance Officer should act as an arbitrator on substantial issues such as promotion, firing, etc. The arbitrator's decision will be presented in the form of *Findings and Recommendations* to the Provost and grievant, and although not binding, can be persuasive since it expresses the finding of an experienced neutral.
 - All evidence which the grievant wishes to present should be brought forth during the formal hearing. The evidence maybe presented in the form of oral testimony, written statements, or dated and signed documents. Hearsay evidence will generally not be acceptable. The Grievant and the persons whose action in grieved have an opportunity to review the evidence presented by both sides as summarized in the Grievance Officer's Report to the President.
 - Because the hearing is administrative in nature, an attorney is not allowed to be present for either side. If the grievant has obtained counsel, that person may wait outside the hearing room if necessary.
 - If the grievant demands legal counsel, the matter will have to be settled outside NHU in a court of law.
 - Complete hearing minutes should be recorded. A cassette is acceptable if requested by the employee, student, or university. At the expense of the requesting party, a full stenographic record of such proceeding can be arranged. Such minutes/tape shall be treated as confidential unless the employee or student institutes litigation against NHU or unless the employee, student, or President makes any public statement concerning the proceeding or the subject matter thereof, the other party is free to respond using data from the minutes as deemed necessary.
- **Report of the Grievance Officer - Findings and Recommendations:** The Grievance Officer shall make to the Provost and President a written report including his recommendation for disposition of the case, with a copy to the grievant, within seven calendar days after the hearing.
- **Grievant's Response:** The grievant may respond in writing to the report of the Grievance Officer's report. Such response should be submitted to the Provost and President with a copy to the Grievance Officer within 10 calendar days after the date of the Grievance Officer's to the President and employee or student.
- **Final Decision:** The President's decision in the matter shall be final in all respects except when there is a dismissal of a faculty member involved. In this instance, the President shall submit the entire file to the Board of Trustees for final decision, but there shall be no hearing before the Board.
- **Selection of Grievance Officers:** A slate of potential Grievance Officers will be appointed by the President or the Provost. The candidates should be acquainted with NHU and its procedures, yet without a vested interest in the outcome of any specific case. Candidates should have mediation skills or be willing to receive training.
 - This slate of officers will be sent to the President's Council for their recommendation and then presented to faculty and students. If there is a strong opposition to any of the candidates, that person's name will be removed. The President's Council will make the final selection of Grievance Officers.

- Any given grievance will be handled by only one of these Officers, chosen by the grievant; however, they may consult with each other whenever they wish.
- **Review:** The Grievance Officers will conduct an annual review of the nature of the petitions brought before them and suggest changes or improvements in NHU procedures where needed to help in dispute prevention.

Policy on Sexual Harassment

NHU is committed to provide a work environment that is free of discrimination and harassment. This policy applies to employees, students, vendor, and visitors. Such behavior is illegal as well as inappropriate. Actions, words, jokes, or comments of a sexual nature will not be tolerated.

- Attempting to coerce an unwilling person into a sexual relationship (physical assault or subtle pressure for sexual activity, whether or not accompanied by implied or overt threats concerning one's job, opportunities for advancement, grades, letter of recommendation, etc.)
- Subjecting a person to unwanted sexual attention (inappropriate touching of another's body, etc.)
- Penalizing a person who refuses sexual advances (denying opportunities for advancement, lowering grades, etc.)
- Creating a sexually intimidating, hostile, or offensive working or educational environment; use of language or gesture to harass sexually (sexual activities, sexist and sexual jokes, staring at another's body, any retaliatory conduct against an individual who has complained of sexual harassment, etc.)

Particular allegations of sexual harassment will be evaluated in light of accepted standards of mature behavior.

Individuals who believe they have been sexually harassed should file a complaint in writing with their supervisor, the Human Resources Office, or the President of the University as soon as possible after the incident. Include details of the incident or incidents, names of the individuals involved, and names of any witnesses. Supervisors will refer the complaints to the Human Resources Office. Complaints involving students will be referred or designated to the appropriate personnel. NHU will immediately undertake an effective, thorough, and objective investigation of the harassment allegations.

Any supervisor who becomes aware of possible sexual or other harassment should promptly advise Human Resources, who will ensure that an investigation is conducted in a timely and confidential manner.

Anyone engaging in sexual or other harassment will be subject to disciplinary action, up to and including termination of employment or dismissal from NHU.

This policy expressly prohibits retaliation against any individual who in asserts a complaint of sexual harassment good faith.

Drug Free Campus

NHU is a drug-free campus and does not allow the unlawful possession, use, or distribution of illegal drugs and alcohol by students on its property or as part of its activities. NHU will sanction students according to local, state, and federal laws; NHU sanctions include student expulsion and referral for prosecution.

Equal Opportunity and Affirmative Action

NHU's policy is to provide all persons with equal employment and educational opportunities regardless of race, color, ethnic group, national origin, religion, sex, sexual orientation, marital status, age, or disability in accordance with Titles VI and VII of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972, Government Code Sections 1135-1139.5, and Section 504 of the Rehabilitation Act of 1973. NHU grievance procedures will be followed for compliance with this policy.

Student Discipline Policy

Expulsion, Suspension, and Probation of Students

Students who are involved in conduct that falls within the categories listed below are subject to disciplinary action which may consist of being expelled, suspended, placed on probation, or given a lesser sanction:

- A lack of honesty, such as cheating, fraud, and plagiarism in any academic pursuit
- Improper use of University documents, records or identification: including forgery, alteration or destruction of such documents, and knowingly furnishing false information
- Theft of, or damage to, private or University property
- Possession or use of explosives, dangerous chemicals or deadly weapons on NHU property
- Use, possession, or distribution of illegal drugs on NHU property
- Conduct, such as disorderly, indecent, lewd, or obscene behavior that is contrary to NHU decorum
- Misrepresentation of oneself or of an organization to be an agent of NHU
- Obstruction or disruption of the campus educational, administrative, or other NHU process or function
- Physical abuse of the person or property of any member of the NHU community
- Unauthorized entry, unauthorized use, or misuse of NHU property

Disposition of Fees

A student may be placed on probation, suspended, or expelled for one or more of the activities enumerated above. No fees or tuition paid by or for such student for the semester in which he or she is suspended or expelled shall be refunded. If the student is re-admitted before the close of the semester or summer session in which he or she is suspended, no additional tuition or fees shall be required of the student on because of the suspension.

Disciplinary Procedures and Due Process

NHU provides due process for students against whom allegations have been made. When disciplinary charges have been filed, the student's status is not altered nor is the right to be on campus and attend classes. The only circumstances under which a student may be summarily suspended from NHU are when the President or his designee determines that:

- The physical safety or emotional well-being of the accused student is in jeopardy
- Teaching, research, administration, or disciplinary procedures or other NHU activities are obstructed or disrupted

- The physical abuse of a person on NHU-owned or controlled property or at an NHU-sponsored or supervised function or other conduct that threatens or endangers the health or safety of any person has occurred