# On the Need for a Process Review and Restructuring of Grievance and Complaint Processes with a Diversity Emphasis at GVSU

## Context

Over the past several years, many FSA coordinators and members have become concerned that grievance and complaint procedures at GVSU are outdated, confusing, and are not providing adequate follow-through in addressing employee concerns, especially concerns brought forward by minority faculty. In particular, the LGBT FSA has been asking for a complete process review of these policies and procedures since at least 2019, when the issue of hostile workplace environments surfaced in focus groups conducted with membership. To date and to the best of our knowledge, that work has not gone forward.

In effort to spur that on, in February of 2023, a small group of FSA leaders began conducting their own informal review of all grievance and procedure policies available from the GVSU website. From that review, we drew up a lengthy list of questions, outlining many areas in which we felt the policies either confusing, inconsistent, or both (appendix A). Shortly afterwards, that small group began meeting with employees from both HR and the Title Nine Office in an effort to get answers to those questions and better make sense of our systems. Those meetings concluded in late March, when we felt our questions had been answered and we had a fairly good grasp on the current state of things.

This document lays out our findings, including concerns about how well current policies are serving GVSU employees in general and minority employees in particular. It is our hope this document will help focus much needed attention on a system that, in our opinion, badly needs a complete overhaul. **Every day this is not done, employees and, by extension, the university as a whole, are potentially being harmed.** It is not possible to emphasize this enough. For employees experiencing hostile working conditions, including discrimination (subtle or overt), bullying, or the like, our grievance and complaint procedures often represent the “nuclear option.” There is significant disincentive to invoke these policies, especially for minority employees, who are already vulnerable, and for whom the fear of retaliation is often very justified. When they are invoked, they need to structured to be as clear as possible, to support the complainant as much as possible, and to treat employees in ways that are consistent and fair. When the system fails to do these things, or do them well enough, not only do we risk traumatizing and losing the employee at the center of the issue, but also other employees. Colleagues talk to each other, especially minority employees, and it’s rare that someone is experiencing difficulties that might warrant a grievance or complaint that no-one else is affected by. If those issues aren’t resolved, and the employee is not protected, a clear message is sent to everyone involved: “This behavior will be tolerated. You will not be protected.” This emboldens those responsible for the harm and signals to everyone aware of the situation that they are not safe here.

## Big-picture issues with our current systems:

**They are complex and confusing.**

It was extremely difficult for those of us working on this project to understand these processes. We spent a great deal of time grappling with questions that seemed, at the outset, as though they should have been easy to explain, and were not. Examples included the difference between a grievance and a complaint, what constitutes a “report,” and what determines whether an issue is handled by the title nine office or HR. That last point in particular is going to be nearly impossible for an employee to figure out on their own, as there are very specific legal requirements that determine whether something rises to the level of a title nine issue. It’s very clear to us that our current policies and procedures were not framed as components of a larger system, but in isolation. This means the whole is significantly more complicated than the sum of its parts. In addition, employees have a number of options to report issues and to resolve them, ranging from more or less formal, each one of which may be more or less appropriate for an employee to use depending on the specifics of their situation. The fact that there are two separate bodies handling these issues (HR and Title Nine Office) means that there are two different tracks an issue might proceed down, again, depending on the particulars of the issue and what kind of employee is reporting the issue, things nearly impossible for the employee to know on their own at the outset. Finally, the Title Nine office has recently begun handling race-based issues as well as gender-based complaints. This also can be confusing for employees, as Title Nine very clearly covers only gender-based discrimination.

While some degree of complexity is probably unavoidable, we think there are ways to make the process easier to understand, as well as provide more up-front guidance to employees to support them in navigating it. The new employee ombuds position is certainly one component of that support, but it’s no substitute for a system that’s been purposefully engineered to be as supportive and navigable as possible.

**They are very inconsistent.**

An employee issue may be handled very differently depending on both the issue itself and the employee classification the complainant occupies. These differences often seem very arbitrary. For example, the faculty complaint process mandates a conference with the Dean, at least mentions the possibility of assembling a panel to investigate the complaint (though this is not mandated) as well as outlining a detailed appeals process if the initial action does not satisfy the complainant. The complaint policy for executive, administrative, and professional faculty mandates only a “response” to a written complaint (the form of that response isn’t specified) within five days. Why is it that faculty have more options, and their complaints appear to demand more scrutiny? Our policies are rife with this sort of thing. Again, it is very clear to us that these policies were crafted in isolation. Inconsistency of response can also result from which campus body handles the complaint. If the issue satisfies the legal requirements for title nine (or other federally defined discrimination), then the issue must be investigated by a body of people with at least some training and expertise in handling similar issues. A number of other requirements immediately come into play as well, such as a requirement to notify the subject of the complaint than an investigation has begun. If, however, a complaint does not rise to that level, then none of that may happen, even if the issue does center around your identity. Just because something does not meet the legal requirements for title nine does not automatically mean it’s not discriminatory, and the exact same behavior leveled at someone based on something that does not include gender identity or race may be handled very differently, even if it’s just as harmful to the employee. An example of this we discussed often in our meetings was bullying. An employee bullying someone based on gender identity probably rises to the level of a title nine complaint. Yet bullying someone in the exact same way over some other, nonprotected aspect of their identity may get less investigation and response, even though the harm to the employee can be the same.

We feel strongly that it is very important that employees be treated in a way that’s consistent and fair, and we do not think that is happening under our current systems and policies. It is true that there will always be some differences in procedures based on employee classification. But it is very important that those differences 1) be as minimal as necessary, and 2) be clearly justifiable to everyone involved. We think that independent investigation of issues by outside parties should be the **standard** for handling complaints and grievances. In the case of minority employees, it is vital that those investigations involve either people who occupy the same identity or, at the very least, have demonstrated very deep knowledge of the specific forms of oppression that group typically faces. Otherwise, how can the process be expected to recognize discriminatory behavior when it exists? The investigator who, for example, has no knowledge of the practice of deadnaming is not going to be able to identify it when it happens to a transgender person, and will not understand why it is so harmful.

**Protections against retaliation are not clearly delineated, especially for issues not handled by the title nine office.**

The number one barrier for faculty and staff in reporting issues is fear of retaliation. This is noted in the ombud’s report and many of us know it from our own personal experiences, or the experiences of our colleagues. For issues that satisfy the legal threshold title nine requires, retaliation protections are automatic and stringent. For issues that don’t rise to that level, however, there is considerable grey area. This issue is also noted in the employee ombud’s report. This is not okay. If we want staff to report issues, especially minority staff who are already in more vulnerable positions due to their identities, then we need to be as clear and consistent as possible about how we handle retaliation.

## Recommendations for change

There are a number of things we feel need to be done to address the issues above, as well as to promote trust, transparency, and understanding of our grievance and complaint procedures and policies.

**Create a more centralized and coherent model for handling all grievances and complaints.**

As stated at the outset, our policies and procedures need a complete overhaul, with the following goals:

* **Create a single centralized entry point for issues:**  Employees need guidance at the outset of any grievance and procedure process in figuring out what their options are, which campus body or policy their issue needs to go through, etc. A single entry point will eliminate confusion over who or what body complainants need to engage with to start the process. If it’s co-managed by HR and the title nine office, then staff from those areas can work with complainants at the outset to help explain their options, determine where their issue needs to be handled, and better support staff in general as they navigate the process.
* **Investigation by an outside body should always be an option for any type of issue:** If an employee elects to pursue a more formal complaint or grievance process, they should always at least have the option of asking for an outside investigation or review of their issue. The Tile Nine office already has a model for this that could be extended to other issues. That office employs specially trained campus volunteers who are chosen for their in-depth knowledge of areas related to the specific issue brought forward. This provides a potential solution to another issue: how to ensure that issues involving minority faculty and staff have access to relevant experience or knowledge about the minority group the complainant occupies.
* **To the greatest degree possible, all employees have access to comparable options and processes:** consistency, to the greatest degree possible, is extremely important. While, again, we recognize that it probably won’t be possible for everyone to be treated in exactly the same way, we feel there’s certainly room for more consistency in our current processes and policies.

Obviously, change of this magnitude is going to involve a lot of people: university council, faculty governing bodies, HR, etc. Many, if not all, current policies on grievance and complaints will probably need to change. That is all the more reason to start the process of revision *immediately. Once again: every day this is not done, people are being harmed.*

**Create and post a retaliation policy that clarifies what counts as retaliation and outlines how employees are protected.**

We understand from speaking to HR staff that the idea of a staff retaliation policy is currently being considered. This would clarify retaliation protections for issues that are not handled by the title nine office, and make them more consistent and uniform. We would urge that that work be fast-tracked, and that we spend time and thought on promoting awareness of such a policy among faculty and staff. If we want staff to feel safe using these procedures (and we should) then addressing potential fears about retaliation has to be a primary concern.

**Establish a regular channel for reporting of data related to grievance and complaints to the campus community**

The title nine office is mandated by law to keep detailed records, which are already reported to upper administration on a regular basis. HR has more recently begun keeping and using similar data related to the issues they handle as well. We would urge that a regular channel for making any and all data that can be shared available to the campus community be established. Transparency will help foster trust in the system, and will empower staff to ask more informed questions about trends affecting employment. If additional staff and resources are needed for this, they should be provided.

## Addressing the issues

To accomplish the work above, we recommend that a task force of involved employees from HR and the Title Nine Office, together with representatives from the FSA groups be formed. The mandate for that group would be to overhaul our grievance and complaint procedures with an inclusion and equity lens. It would be helpful if this effort was championed and pushed forward by administrators who oversee both of these areas, together with Inclusion and Equity, as the parties who have the most direct stake in this work. The framers of this document are well aware that this effort will require a significant investment of staff time and work to accomplish. We need upper administration to help us make the time and space for it.

## Appendix A: Questions about Current Policies

FSA leaders framed the following questions about current grievance and complaint procedures after reviewing all policies related to complaint and grievances we could locate on the GVSU website (see appendix B). It is entirely possible there were procedures or policies we missed-we are not aware of a centralized listing of these (which is, perhaps, a problem in itself).

1. What is a grievance vs a complaint?  How are those different from a title nine complaint?
2. If I’m a faculty or staff member experiencing, for example, bullying, what are my options?  How are these spelled out?  How do I find out what they are?
3. Why are there three different places where complaints/grievances can go?  Are things handled differently depending on what body I speak to?  How do I as a faculty or staff member know which one to go to for what?
4. Do we keep any data on grievances, complaints, or title nine complaints?  If so, what do we keep, and who gets to see it?  If not, why not?
5. What happens when someone experiences retaliation?  Are there any pre-emptive steps that can be or are taken to reduce the likelihood that people will experience retaliation?  How do our processes protect the complainant (or do they at all)?
6. What types of actions (if any) can be taken when someone files a complaint, grievance, or title nine complaint that concerns someone else’s behavior?  For example, is training an option?  What about termination?  What other disciplinary options exist?
7. Why are complaint processes so different for staff vs. faculty?  Staff policy on complaints does not even mandate an investigation of the complaint.  Why?
8. Why does the collegiality policy have it’s own resolution process that’s specific to that policy?
9. For minority faculty and staff, understanding harassment is often rooted in understanding the specific dynamics of prejudice that group typically faces.  When complaints/grievances/title nine complaints are investigated, are steps taken to ensure those doing the investigation have, or have access to, that knowledge?
10. How does the new HR “Business partner” program interact with existing grievance/compaint procedures?  If misconduct or discrimination is reported to a BP, where does that go?  Are those complaints tracked and recorded?
11. How does the conflict resolution process figure into all of this?  <https://www.gvsu.edu/hro/conflict-resolution-process-crp-112.htm>

## Appendix B: Policy Links

These are the policies we reviewed at the outset to frame our questions:

### Grievance, complaint, compensation, and promotion policies and documents

**Faculty grievance procedure**

<https://www.gvsu.edu/policies/policy.htm?policyId=B8B519FA-E453-9479-3681F52D96ABA706&>

**Regular executive, administrative, and professional staff grievances**

<https://www.gvsu.edu/policies/policy.htm?policyId=B1A5B4DE-0ECC-AF79-887F8F860E78792C&search=grievance>

**Regular faculty termination processes and disciplinary action**

<https://www.gvsu.edu/policies/policy.htm?policyId=B7799A43-ECD1-6456-07E5B62873E449E7&search=4.2.13>

**Policy prohibiting title IX sexual harassment, sexual misconduct, and discriminatory harassment**

<https://www.gvsu.edu/policies/policy.htm?policyId=7E08654A-ACE7-9AC9-5B933125DDA72033>

How to file a complaint under this policy:

<https://www.gvsu.edu/affirmative/how-to-file-a-complaint-3.htm>

**Regular Faculty Complaint Procedure**

<https://www.gvsu.edu/policies/policy.htm?policyId=E0786768-96FB-FC5E-615457E549FEFF27>

**Regular executive, administrative, and professional staff complaints**

<https://www.gvsu.edu/policies/policy.htm?policyId=B1994C54-F598-53F5-01F9BB8C8F6E342B&search=complaint>

**Non-tenure track faculty complaint procedures**

<https://www.gvsu.edu/policies/policy.htm?policyId=BC2996E4-9ADA-3B67-BC1CDD80A37B586A&search=complaint>

**University compensation Information website:**

<https://www.gvsu.edu/hro/compensation-information-121.htm>

**Collegiality Policy**

<https://www.gvsu.edu/policies/policy.htm?policyId=81E4F806-C95C-9E1B-6139B9771882F72E&search=complaint>