

## **3354:1-42-01.2 Discrimination and harassment complaint procedure.**

### **(A) Introduction**

- (1) The College prohibits discrimination against students, employees and others based on race, color, religion, sex (including sexual harassment), pregnancy, national origin, ancestry, disability, age, sexual orientation, gender identity and expression, veteran status, military status and genetic information.
- (2) This procedure is to be followed for the resolution of any complaint alleging discrimination against students, employees and others based on race, color, religion, sex (including sexual harassment), pregnancy, national origin, ancestry, disability, age, sexual orientation, gender identity and expression, veteran status, military status and genetic information. This includes but is not limited to discrimination claims based upon:
  - (a) Title IX of the Education Amendments of 1972, which prohibits sex discrimination in educational programs and activities that receive federal financial assistance;
  - (b) Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination based on disability in educational programs and activities that receive federal financial assistance; and
  - (c) Title II of the Americans with Disabilities Act of 1990, which prohibits discrimination based on disability within a public entity.
- (3) Cuyahoga Community College (“the College”) provides this grievance procedure to insure that College students, employees and others are treated fairly, and that they receive prompt responses to problems and complaints of discrimination or harassment whether based on race, color, religion, sex (including sexual harassment), pregnancy, national origin, ancestry, disability, age, sexual orientation, gender identity and expression, veteran status, military status and genetic information.

- (4) The College prohibits any retaliation against anyone who files a complaint or participates in an investigation concerning a claim of discrimination and/or harassment whether based on race, color, religion, sex (including sexual harassment), pregnancy, national origin, ancestry, disability, age, sexual orientation, gender identity and expression, veteran status, military status and genetic information.
- (5) In cases of harassment based upon a person's race, color, religion, sex, pregnancy, national origin, ancestry, disability, age, sexual orientation, gender identity and expression, veteran status, military status and genetic information, the College will take steps to prevent the recurrence of any harassment, and to correct discriminatory effects on those affected as appropriate.
- (6) The College shall protect the privacy of individuals involved in a report or investigation of discrimination or harassment to the extent allowed by state and federal law and College policy.

(B) Coordinator

The College has designated the Director of Diversity & Inclusion, from Office of Human Resources as the Coordinator for Title IX, Title II and Section 504. They may be contacted at 2500 E. 22<sup>nd</sup> Street, Cleveland, Ohio 44115 or at 216-987-0204.

(C) Informal Grievance Procedure

- (1) The College encourages informal resolution of complaints where appropriate. A student, employee or other may first discuss a complaint directly with the individual against whom the complaint is made.
- (2) If a complaint involves a department and not a particular individual, the student, employee or others making the complaint may discuss the incident(s) with a representative of that department, such as the supervisor, manager, director or dean for the department in which the alleged incident(s) occurred.

- (3) Whenever possible, informal resolution should be initiated within 30 calendar days of the alleged incident(s). Should the complaint not be resolved as a result of informal resolution, the student, employee or other may utilize the Formal Grievance Procedure.

(D) Formal Grievance Procedure

- (1) Students, employees and/or others who believe they have been subject to discrimination based on race, color, religion, sex, pregnancy, national origin, ancestry, disability, age, sexual orientation, gender identity and expression, veteran status, military status and genetic information whether involving students, employees, faculty or others, may elect to use the Formal Grievance Procedure to resolve their grievances.

- (2) No one is required to utilize the informal grievance procedure before proceeding directly to the Formal Grievance Procedure.

- (3) Complaint Process

- (a) A student, employee or other third party who elects to file a formal grievance (“Claimant”) must complete and submit the formal standardized Complaint of Discrimination Form (“Complaint Form”) to the College’s Office of Human Resources. This can be obtained by contacting the site Human Resource Manager, or the Office of Human Resources, located at 2500 E. 22<sup>nd</sup> Street, Cleveland, Ohio 44115.

In the event that the complaint is directed against any of the employees within the Office of Human Resources, the Claimant may file the Complaint Form with the Vice President of Human Resources, located at 2500 E. 22<sup>nd</sup> Street, Cleveland, Ohio 44115. The Vice President may also be reached at (216) 987-4836.

- (b) The Complaint Form should be submitted to the Office of Human Resources within 90 calendar days of the alleged incident(s). However, the College encourages a Claimant to file his or

her Complaint as soon after the alleged incident(s) as possible to enable a fair and quality investigation.

- (d) The Office of Human Resources will conduct an impartial investigation of the Complaint. The investigation will include the following, as appropriate:
  - (i) Review of the Complaint Form including any attached documents.
  - (ii) Interview of the Claimant and the person(s) against whom the complaint is made (“Respondent”).
  - (iii) Opportunity for the Claimant and Respondent to identify witnesses and supply evidence.
  - (iv) Interview of witnesses and review of evidence, including obtaining additional information from the Claimant and Respondent, as necessary.
  - (v) Documentation of the interviews and witness statements.
  - (vi) Drafting of findings of facts, including agreed and disputed facts.
  - (vii) If deemed appropriate, an attempt for resolution of the grievance between the Claimant and Respondent.
  - (viii) A determination as to whether the Claimant was subject to discrimination.
  - (ix) In the event of a student complaint against another student, referral and recommendation to the Dean of Student Affairs for the campus where the alleged incident(s) occurred for purposes of considering conduct sanctions.

- (x) In the event of a complaint against an employee, vendor or other third party, referral and recommendation to the Office of Human Resources for purposes of considering whether due process and/or corrective action proceedings are appropriate.
  - (xi) In the event of a complaint against a faculty member, referral and recommendation to the Office of Human Resources and the Dean of Academic Affairs for the campus where the alleged incident(s) occurred for purposes of considering whether due process and/or corrective action proceedings are appropriate.
- (4) Complaint Determination
  - (a) The Office of Human Resources will make every reasonable effort to conclude the investigation, including issuance of findings and a written report, within 30 calendar days.
  - (b) If an investigation cannot be completed within 30 calendar days, then the Office of Human Resources shall notify the Claimant in writing and provide an estimated completion date.
  - (c) If the investigation takes longer than 90 calendar days, the Office of Human Resources will periodically inform the Claimant of the status of the investigation.
  - (d) The Claimant, Respondent, and when appropriate, the Respondent's supervisor, manager, director or appropriate dean (as defined above), shall be notified in writing of the outcome of the investigation.
- (5) Appeal
  - (a) Student complaint against another student.

- (i) At the conclusion of an investigation involving a student complaint against another student, the Claimant may appeal the investigation outcome by filing a written appeal with the Dean of Student Affairs for the campus on which the alleged incident(s) occurred within 5 business days of receipt of the determination.
  - (ii) The written appeal shall contain a concise statement of the complaint, the rationale for the appeal, including any relevant documentation, and cite the requested remedy.
  - (iii) Upon the filing of an appeal, an Appellate Board will review the original complaint, determination, recommendation and supporting information.
  - (iv) The Appellate Board will make every reasonable effort to issue a written decision within fourteen (14) business days from receipt of the appeal. If additional time is necessary, the Appellate Board will so inform the Claimant.
  - (v) With respect to the student's complaint, the Appellate Board's decision will be final.
  - (vi) The Appellate Board shall be authorized by the Executive Vice President for Academic and Student Affairs ("EVP-ASA") and shall consist of three members with College-wide jurisdiction. The members of the Appellate Board shall include two (2) Deans of Student Affairs (excluding the Dean of Student Affairs for the campus where the alleged incident(s) occurred), and one (1) Assistant Dean of Student Affairs from the same two campuses, as determined by the EVP-ASA.
- (b) Complaints against an employee, faculty member or other third party.

- (i) At the conclusion of an investigation involving a complaint against an employee, faculty member, vendor or other third party, the Claimant may appeal the determination by filing a written appeal with the Vice President of Human Resources or designee, within 5 business days of receipt of the determination.
- (ii) The written appeal shall contain a concise statement of the complaint, the rationale for the appeal, including any relevant documentation, and cite the requested remedy.
- (iii) Upon the filing of an Appeal, the Vice President of Human Resources or designee will review the original complaint, determination, recommendation and supporting information.
- (iv) The Vice President of Human Resources or designee will make every reasonable effort to issue a written decision within fourteen (14) business days from receipt of the appeal. If additional time is necessary, the Vice President of Human Resources or designee will so inform the Claimant.
- (v) With respect to the Claimant's complaint, the Vice President of Human Resources' or designee's decision will be final.

(E) Time Frames

- (1) The time frames and limits above are subject to modification on a case-by-case basis due to operational requirements, travel away from campus, complexity of investigations and other considerations.
- (2) The term "business day" means a day that falls on or between Monday through Friday, excluding any date that is a College
- (3) holiday; winter leave day; or day that the College is closed for weather, emergency, or any other reason.

## (F) Public Records

A report of discrimination or harassment may result in the gathering of extremely sensitive information about individuals in the College community. The College may be required to disclose personal information in accordance with Ohio Public Records law.

## (G) Governmental Agencies

- (1) A Claimant is not required to use the College's internal grievance procedure and thus a Claimant may, at any time, choose to file a complaint directly with the Department of Education, Office for Civil Rights. The Office for Civil Rights may be contacted as follows:

Office for Civil Rights, Cleveland  
U.S. Department of Education  
600 Superior Avenue East, Suite 750  
Cleveland, OH 44114  
Tel.: (216) 522-4970 Fax: (216) 522-2573

- (2) A Claimant may also choose to file directly with the Ohio Civil Rights Commission. The Ohio Civil Rights Commission may be contacted as follows:

Ohio Civil Rights Commission  
Cleveland Regional Office  
615 W. Superior Avenue, Suite 885  
Cleveland, OH 44113-1897  
Tel.: (216) 787-3150 Fax: (216) 787-3549

- (3) Claimant may also choose to file an action with the Equal Employment Opportunity Commission. The Equal Employment Opportunity Commission may be contacted as follows:

Equal Employment Opportunity Commission  
Cleveland Field Office  
Anthony J. Celebrezze Federal Building  
1240 E. 9<sup>th</sup> Street, Suite 3001  
Cleveland, Ohio 44199  
Tel.: (800) 669-4000 Fax: (216) 522-7395  
TTY: (800) 669-6820

- (H) The President or the President's designee shall take all steps necessary and appropriate for the effective implementation of this procedure.

Effective date: January 2, 2013

Prior effective date: July 13, 2011