

Non-Discrimination Policy and Procedures

Clarion University of Pennsylvania



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by the Council of Trustees.

Non-Discrimination Policy and Procedures

I. Policy

- A. The procedures described below apply to complaints alleging discrimination because of race, color, national origin, sex, age, religion, disability, veteran status, and sexual orientation. These procedures are intended to ensure fairness and consistency in the university's administration of its policies and practices. Every good faith effort shall be made to resolve complaints through use of the university's administrative mechanisms. Complaints of sexual harassment are investigated under separate university procedures.
- B. Clarion University is committed to the principles of free expression and academic freedom. As such, "discrimination" as defined in this policy, is neither legally protected expression nor the proper exercise of academic freedom.
- C. These procedures shall be applicable to all university employees (except where otherwise noted) and students located at the respective campuses and sites. Employees represented by collective bargaining units may, however, refer to the grievance procedures of their related bargaining units. Undergraduate and graduate students may refer to the hearing process set forth in the Student Code of Conduct.
- D. Complaints alleging discrimination against the assistant to the president for social equity and/or the president of the university shall be filed with the Office of the Chancellor, PA State System of Higher Education (PASSHE) Dixon Center, Harrisburg, PA 17110, 717-720-4000.
- E. It is the policy of the university that individuals will not be reprimanded or retaliated against for initiating an inquiry or complaint under these procedures. It is also the university's policy to recognize and respect the rights of any individual against whom a complaint has been filed.
- F. Under this policy, the complainant is the individual who makes allegations that discrimination has occurred. The respondent is the individual against whom the allegations of discrimination have been made.

- G. In initiating or responding to a complaint, the complainant or respondent may be accompanied by a member of the university community. Nothing under these procedures is intended to abrogate the right of an individual to consult with his or her attorney.
- H. Every good faith effort shall be made to maintain confidentiality throughout the complaint process. However, complete confidentiality cannot be guaranteed under all circumstances.
- I. Complaints reported anonymously may not result in an investigation but will serve to improve the university's knowledge of the extent to which there is a need to provide additional education relative to non-discriminatory conduct.
- J. Any employee or student who believes that he or she has been unfairly treated, in violation of the university's policy, may institute the complaint procedures as set forth below.
- K. Counseling is made available to any student or employee who believes that he/she has been subjected to any form of discrimination. Students may avail themselves of counseling services through the university's Counseling Center. Counseling services are made available to employees through the State Employees Assistance Program (SEAP). SEAP may be contacted through the Office of Human Resources.
- L. The university will provide training on an annual basis. All faculty and staff are required to participate in this training within 60 days of commencing employment and at least every year thereafter. The university will provide training to all new students, orientation leaders, and residence hall assistants.

II. Procedures

A. Informal Review

- Step 1.** An employee or student who feels aggrieved should first discuss the complaint with either his or her immediate supervisor, department chair, or dean (where applicable). The employee or student should inform the supervisor, chair or dean of his or her complaint within a reasonable period of time. Normally, this is 30 calendar days from the date of the individual's first knowledge of the alleged discriminatory action. Every effort should be made by the supervisor, chair, or dean to resolve the complaint informally.

- Step 2.** In cases where discussion with an immediate supervisor, (e.g., chair, etc.) does not satisfactorily resolve the complaint, the employee or student may initiate discussion with the successively higher supervisors in the office, department, division, or college (e.g., dean, director, or vice president). When discussion with the heretofore mentioned supervisors proves unavailing (e.g., if the supervisor is the person charged with the discriminatory conduct) or does not resolve the complaint to the satisfaction of the complainant, the complainant should immediately file the complaint with the assistant to the president for social equity. It shall be the responsibility of assistant to the president's to determine within 10 business days whether the complaint is properly classified as a possible instance of discrimination based on the complainant's race, color, national origin, sex, age, religion, disability, veteran status, sexual orientation, or marital status. If not properly classified, the assistant to the president shall communicate such to the complainant in writing.
- Step 3.** If the assistant to the president determines that the complaint should be considered under Equal Employment/Educational Opportunity (EEO) procedures, he or she will discuss the complaint with the complainant and attempt to serve as mediator in an effort to achieve an informal resolution to the problem. The accused will be informed of the concerns or complaint as presented by the complainant and will be afforded an opportunity to respond. Said response may be a written or oral presentation of factual data. Should this mediation process result in agreement, as represented in the disposition of the complaint, the terms of agreement shall be recorded and signed by the complainant, respondent, and the assistant to the president for social equity.
- Step 4.** During all informal attempts to resolve a complaint, every effort shall be made to: (1) notify the accused of the nature of the complaint (which is generally within a twenty (20) day period); (2) identify or defer the identification of the complainant, as appropriate; and (3) maintain confidentiality of the investigative process.
- Step 5.** The complainant or the respondent may be accompanied by any person of their choosing from within the university community during the informal process or meetings for the purpose of consultation. If either party is covered under a collective bargaining agreement with the university, the Social Equity Office will inform that party of his/her right to union representation.

Step 6. Should this mediation not resolve the complaint to the satisfaction of the complainant, he or she may file a formal complaint, in writing, within ten (10) business days with the assistant to the president for social equity. At the employee's or student's written request, the Office of Social Equity shall conduct a formal investigation of the complaint. A sample form for the employee's statement of complaint is available from the Office of Social Equity (see Attachment A).

B. Formal Review

1. If the complaint cannot be solved through informal discussions, or the offense is so egregious, the complainant should file a formal written complaint with the Office of Social Equity. The assistant to the president for social equity will notify the respondent that a complaint has been filed and will send a copy of the formal written complaint to the respondent.
2. All formal, written complaints will be given a full, impartial, and expeditious investigation by the Office of Social Equity. During such investigations, while every effort will be made to protect the privacy rights of all parties, confidentiality cannot be guaranteed. The assistant to the president for social equity has the responsibility for investigating complaints filed and will attempt to perform the investigation within 30 to 60 calendar days from receipt of the complaint. The investigation will in all cases be thorough and circumspect. The assistant to the president for social equity will interview the complainant, the respondent, and all other parties as deemed appropriate. He or she will also gather relevant factual data.
3. If the assistant to the president for social equity believes that the complaint has merit (i.e., warrants an investigation) and if the respondent is covered under a collective bargaining agreement with the university, the assistant to the president for social equity will inform the respondent of his or her right to request union representation. The respondent will be afforded an opportunity to respond to the charges as specified in the formal complaint. Copies of the findings of the case will be provided to both the complainant and the respondent.

C. Sanctions and Remedies

1. If investigation of the alleged discrimination shows that the complaint is without merit, both parties will be so informed. If, however, the assistant to the president for social equity finds that it is more probable than not that there has been a violation of the university's policy, the assistant to the president will report these findings to the president or the vice-president for student affairs (if and when there are issues of student discipline). If and when disciplinary action is warranted, appropriate disciplinary procedures may be initiated as set forth in the Commonwealth of Pennsylvania's Personnel Rules, the *Student Rights and Regulations Handbook*, or in any of the pertinent collective bargaining agreements in force at the university.
2. Possible sanctions include, but are not limited to: a verbal warning, a written warning, suspension, expulsion from the university, or termination of employment.
3. If the complainant and respondent remain dissatisfied with the results of the process, he or she should so inform the president within five business days from the date that he or she was informed of the complaint's findings.

D. Prohibition of Reprisals

The complainant or no other person shall be subjected to discharge, suspension, discipline, harassment, or any form of retaliation for having filed, participated in, or helped others use this complaint procedure.

E. Administration of the Procedures

1. All records pertaining to an active complaint shall generally be kept in a file maintained by the Office of Social Equity and shall be separate from the employee's personnel file. (Each file shall be kept for a period of at least three years.) All records pertaining to formal disciplinary action taken in such cases will be maintained in accordance with the appropriate personnel procedures or other applicable policies.
2. When any party cannot meet the time limit for action required at a given step of the complaint procedures, he or she may notify the assistant to the president for social equity that an extension is warranted under the circumstances.

F. Other Procedures for Addressing Complaints of Discrimination

Filing a complaint in accordance with the procedures set forth above in no way abrogates the complainant's right to file complaints of discrimination with the appropriate state and federal enforcement agencies or with the courts. These specific procedures are intended to resolve complaints within the university. They are not ordinarily available or equipped to deal with the substance of a complaint that has been filed with an external agency. The complainant may also file a formal complaint with the Pennsylvania Human Relations Commission, the United States Equal Opportunity Commission, or the United States Department of Education, Office of Civil Rights. Usually, 180 calendar days is the time frame for filing a complaint with these agencies.

G. Revisions

In order to be responsive to changes in state system policies and case law, the procedures may be revised periodically.

Clarion University of Pennsylvania is committed to equal employment and equal educational opportunities for all qualified individuals regardless of race, color, sex, religion, national origin, affectional or sexual orientation, age, disability, or other classifications that are protected under Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990 and other pertinent state and federal laws and regulations. Direct equal opportunity inquiries to: Assistant to the President for Social Equity, 207 Carrier Administration Building, Clarion, PA 16214-1232, 814-393-2109.

Attachment A

Sample

Clarion University of Pennsylvania

COMPLAINT FORM

Date _____

Complainant Name: _____
(Last Name , First Name, Middle Initial)

Address: _____

Town _____

Telephone number _____

Check one: Student Employee

Specifics of complaint (describe below, including any dates of alleged discrimination). Attach an extra page if necessary.

If you wish, please describe any corrective action you would like to see taken with regard to the possible discriminatory conduct. Attach an extra page if necessary.

Signature of Complainant

Clarion University, Office of Social Equity



A member of the Pennsylvania State System of Higher Education

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www.clarion.edu