

## 3357:13-15-031 Discrimination Grievance Procedures

(A) The purpose of these procedures is to provide a prompt and equitable resolution for complaints or reports of discrimination based upon race, color, religion, national origin, creed, service in the uniformed services (as defined in state and federal law), veteran status, sex, age, political ideas, marital or family status, pregnancy, physical or mental disability, genetic information, gender identity, gender expression, or sexual orientation. The industry standard designation for these kinds of violations as well as the office of responsibility for the reporting and handling of these matters is identified by the term “EO”. Any person believing that they have been subjected to discrimination or harassment on any of these bases may file a complaint or report with the College “EO”. These procedures address all complaints or reports of alleged discrimination or harassment, including conduct that violates the Discrimination, Harassment, Sexual Misconduct, Stalking and Retaliation Policy (hereinafter referred to as “Policy Violations”). The procedures also address complaints or reports of retaliation against those who have opposed practices forbidden under the policy, those who have filed complaints or reports under the policy, and those who have testified or otherwise participated in enforcement of the policy.

### (B) College Complaints and Reporting

(1) Complaints and third-party reports of discrimination, including Policy Violations, should be made to the Title IX Coordinator (EO). The EO staff members are trained to help you find the resources you might need, to explain all reporting options, and to respond appropriately to conduct of concern. All instances of retaliation should be reported and will be addressed in the same manner. The contact information for the EO is listed below.

Title IX Coordinator (EO)  
North Central State College  
Fallerius Technical Building  
Room 158  
2441 Kenwood Circle  
Mansfield, OH 44906  
419-755-4538

(2) Complaints and reports should be made as soon as possible after an incident. The EO coordinates and tracks all complaints and reports under this procedure.

(3) There are several avenues available for submitting a complaint or report:

- (a) Leave a private voice message for the EO;
- (b) Send a private email to one of the EO staff;
- (c) Mail a letter to the EO office;
- (d) Visit one of the EO staff (it is best to make an appointment first to ensure availability).
- (e) Report to another trusted College official (e.g., Professor, Coach, Advisor) who will provide information as required under the policy to the EO.

- (4) If there is a complaint about the EO or any staff member that is part of the EO Office, or if the EO or EO staff has a complaint, that complaint should be filed with the President of the College. The President will appoint another trained individual to take the place of the EO for purposes of the complaint.

### (C) Criminal Reporting

- (1) Please remember that if someone is in immediate danger or needs immediate medical attention, the first place to report is 911. You may also report to the College's Campus Security (dial 419-755-4346), or to the Mansfield Police Department. Some forms of discrimination and harassment may also be crimes. For example, sexual assault, stalking and rape are crimes. Criminal reports should be made to law enforcement, even if it is uncertain whether the particular conduct is a crime. Calling local law enforcement can help you: Obtain emergency and nonemergency medical care; get immediate law enforcement response for your protection; understand how to provide assistance in a situation that may escalate to more severe criminal behavior; arrange a meeting with victim advocate services; find counseling and support; initiate a criminal investigation; and answer questions about the criminal process.
- (2) In order to preserve any physical evidence of a sexual offense, victims of sexual assault are urged not to bathe, shower, use any feminine douche or change clothing. Such victims should go immediately to a medical facility of their choice to receive medical treatment if needed and to insure that the appropriate examinations are conducted to collect the necessary physical evidence of the assault. (3) The cost of medical treatment or examination of the victim of a sexual assault for physical evidence shall be charged to the political sub-division where the offense occurred (Ohio Revised Code Statutes 2907.28 and 2907.29). There is no cost to the crime victim for such medical treatment or examination in Ohio.

### (D) Confidentiality of Complaints and Reports

Parties in these processes, including the Complainant, the individual accused of a Policy Violation ("Respondent"), and witnesses, have privacy rights and reasonable expectations of confidentiality in the investigation of matters subject to this procedure. In addition, the integrity of the process depends on ensuring reasonable expectations of confidentiality. The EO will keep confidential the complaint, report, witness statements, and any other information provided by the Complainant, Respondent, or witnesses and will disclose this information only to the Complainant, Respondent, or witnesses, as necessary to give fair notice of the allegations and to conduct the investigation; to law enforcement consistent with state and federal law; to other College officials as necessary for coordinating interim measures or for health, welfare, and safety reasons, and to government agencies who review the College's compliance with federal law. The investigation report and any written decision from the Discrimination Grievance Committee will be disclosed only to the Complainant, Respondent,

EO, Discipline Authority<sup>1</sup> as necessary, and College officials as necessary to prepare for subsequent proceedings (e.g., College President and College Legal Counsel). Members of the Discrimination Grievance Committee have the same strict obligations to keep all information they learn confidential, subject to the limited exception when necessary to protect health, welfare or safety. Information about complaints and reports, absent personally identifiable information, may be reported to College officials and external entities for statistical and analysis purposes pursuant to federal and state law and College policy.

#### (E) Anonymous and Third Party Reporting

The EO accepts anonymous and third-party reports of conduct alleged to violate this Policy and will follow up on such reports. The individual making the report (Reporter) is encouraged to provide as much detailed information as possible to allow the EO to investigate and respond as appropriate. The EO may be limited in the ability to investigate an anonymous report unless sufficient information is furnished to enable the EO to conduct a meaningful and fair investigation.

#### (F) Role of the EO

The EO is charged with coordinating the College's compliance with federal civil rights laws, all of which are listed at the end of these Procedures. The EO is not an advocate for either the Complainant or the Respondent. The EO will explain to both parties the informal and formal processes outlined below and the confidentiality provisions as outlined above. Where appropriate, the EO will provide to both parties information about options for obtaining medical and counseling services; information about making a criminal report, information about receiving advocacy services, information about other helpful campus and community resources. The EO will offer to coordinate with other campus officials, when appropriate, to implement interim remedial measures such as no-contact orders, rearrangement of living arrangements, or academic accommodations. The EO will describe the process of a fair and impartial investigation. The EO will explain the right of the Respondent to review and respond to allegations and evidence against him or her. The EO will explain to both parties their rights to have a person of support with them during their interviews and during the hearing stage of these procedures. If an individual does not want to pursue a complaint, the EO will inform the individual that the College is limited in the actions it can take without the cooperation of the individual. The EO will also explain to parties and witnesses that retaliation for reporting alleged violations of the policy, or participating in an investigation of an alleged violation, is strictly prohibited and that any retaliation should be immediately reported and will be promptly addressed.

#### (G) Immediate Action and Interim Measures

The College may take interim measures to assist or protect the parties during the grievance process, as necessary and with the Complainant's consent. Such measures for a student

---

<sup>1</sup> In the case of employees, the Discipline Authority is the College administrator with the authority to impose sanctions in accordance with applicable employment policies and procedures and collective bargaining agreements. In the case of students, the Discipline Authority is the Vice President of Academic Services.

Complainant may include arranging for changes in class schedules or living arrangements, issuing a no-contact order, obtaining counseling, and modifying test schedules or other class requirements temporarily. For an employee Complainant, the College may temporarily reassign or place on administrative leave an employee alleged to have violated this policy.

## (H) Resolution

If a Complainant chooses to file a complaint, there are two avenues for resolution of an alleged Policy Violation: formal and informal resolution. The Complainant has the option to proceed informally, when permissible. In cases involving allegations of sexual assault, informal resolution is not appropriate, even if both the Complainant and Respondent indicate a preference for informal resolution.<sup>2</sup> The EO is available to explain the informal and formal resolution procedures.

### (1) Informal Process and Resolution

- (a) If the Complainant, the Respondent, and the EO all agree that an informal resolution should be pursued, the EO (or her/his designee) shall attempt to facilitate a resolution of the conflict that is agreeable to all parties. Under the informal process the EO shall be required only to conduct such fact-finding as is useful to resolve the conflict and as is necessary to protect the interests of the parties, the College and the community. Typically, an informal investigation will be completed within twenty (20) days of receipt of the complaint. If it becomes necessary to extend the process, both parties will be notified of a revised expected resolution timeframe.
- (b) A Complainant or Respondent always has the option to request a formal investigation. The EO also always has the discretion to initiate a formal investigation. If at any point during the informal process, the Complainant, the Respondent, or the EO wishes to cease the informal process and to proceed through formal grievance procedures, the formal process outlined below will be invoked.
- (c) The informal resolution must adequately address the concerns of the Complainant, as well as the rights of the Respondent and the overall intent of the College to stop, remedy and prevent Policy Violations. (Informal actions might include, but are not limited to: providing training to a work unit; having an informal discussion with an individual whose conduct, if not stopped, could rise to the level of discrimination, or hostile environment harassment; or having a confidential conversation with a supervisor or instructor).

### (2) Formal Process

(EO refers to the EO or trained designee.)

---

<sup>2</sup> The U.S. Department of Education, Office for Civil Rights, Dear Colleague Letter, dated April 4, 2011, p. 8, states: [I]n cases involving allegations of sexual assault, mediation is not appropriate even on a voluntary basis.

- (a) Step 1: EO discusses concerns with Complainant, and the Respondent as appropriate, including providing information about the policy and procedures and other helpful resources. EO also considers whether immediate or interim actions or involvement of other College offices is appropriate. EO determines whether the office has jurisdiction to investigate the matter. The EO only has jurisdiction to investigate complaints alleging discrimination, harassment, sexual misconduct, stalking, and retaliation.
- (i) Option 1: If the EO determines that there is no jurisdiction, the EO will offer to assist the Complainant and, as appropriate, the Respondent, in finding appropriate campus and off-campus resources for addressing the issue of concern.
- (ii) Option 2: If the EO determines that there is jurisdiction, the EO will proceed to Step 2.
- (b) Step 2: EO conducts or oversees the conducting of a fair and impartial investigation of the alleged Policy Violation and proceeds to Step 3. Typically an investigation will be completed within twenty (20) days of receipt of the complaint. If it becomes necessary to extend the process, both parties will be notified of a revised expected resolution timeframe.

Only a trained investigator will conduct an investigation. Respondents will have the opportunity to review and respond to evidence considered against them. Both parties will have the opportunity to review and provide comments to the investigator about the written investigation report before it is finalized.

- (c) Step 3: EO determines whether there is a preponderance of the evidence to believe that an individual engaged in a Policy Violation. This means that individuals are presumed not to have engaged in alleged conduct unless a “preponderance of the evidence” supports a finding that the conduct has occurred. This “preponderance of the evidence” standard requires that the evidence supporting each finding be more convincing than the evidence in opposition to it.

In making the determination of whether harassment has created a hostile environment, the EO will consider not only whether the conduct was unwelcome to the Complainant, but also whether a reasonable person in the Complainant’s situation would have perceived the conduct as objectively offensive. The EO’s findings will be in writing and will be provided to both the Complainant and to the Respondent(s).

Option 1: If EO finds a preponderance of the evidence of a Policy Violation does not exist, the matter is documented and closed; in this case the Complainant may appeal the finding to the Discrimination Grievance Committee.

Option 2: If EO finds that a preponderance of the evidence of a policy violation exists, the EO’s written report will include recommendations for steps to take to prevent recurrence of any such violation, and as appropriate, remedies for the Complainant. The Respondent may appeal the finding to the Discrimination Grievance Committee. If the Respondent does not contest the finding, the Respondent will be required to sign the written finding and the written finding will be provided to the Discipline Authority for a determination of appropriate sanctions. In the case of student Respondents, the Discipline Authority will be the Dean,

Student Services and Enrollment Management. In the case of employees, the Discipline Authority is the College administrator with the authority to impose sanctions in accordance with applicable employment policies and procedures. The Discipline Authority must inform the EO of the ultimate sanctions imposed upon a Respondent. The EO will inform the Complainant of the sanctions as permitted by applicable Title IX and privacy laws.

(I) Relation to the (1) Student Code of Conduct, and (2) Disciplinary Action and Due Process Policy

The Chief Academic Officer is charged with imposing sanctions in cases of academic misconduct, the Chief Student Conduct Officer in cases of non-academic misconduct, and a College administrator with the authority to impose sanctions in accordance with applicable employment policies and procedures is charged with imposing sanctions on employees who are found to have violated this policy, even when the conflict is resolved through the informal resolution step. Sanctions for students may include eviction from campus housing, suspension, expulsion, probation, a warning, or any other sanction set forth in the Student Conduct Code. Sanctions for employees may include suspension, termination, or any other sanction set forth in the Corrective Action policy. Disciplinary records for policy violations are maintained in the same manner as other disciplinary records.

(J) Reporter or Complainant Requests No Investigation

If a reporter or Complainant requests that an investigation not be conducted, the EO will consider the reasons for the request, including concerns about continued safety of the person reportedly harmed and members of the campus community. The EO must also balance considerations about the continued health and safety of members of the community against a reporter's or Complainant's desire not to have the report investigated. In cases when a reporter or Complainant does not want to have a report investigated, but the EO has concerns that not taking formal or informal action might endanger the health or safety of members of the campus community, the EO will initiate confidential consultation with appropriate individuals to analyze the situation and assist in determining appropriate measures to take. Consultation may occur with the Vice President of Academic Services, chair(s) of the Behavioral Intervention Team (BIT), Public Safety Officer, Clery Compliance Officer, psychological health professional, Director of Human Resources, and legal counsel. The EO will make the ultimate decision about whether to conduct a formal investigation or respond to the report in another manner, including taking informal actions, such as those described above.

(K) Appeals to the Discrimination Grievance Committee

(1) Composition of the Committee - The committee shall have five (5) regular members including the Chair. Of the five regular members, one shall be a student, one shall be a member of the faculty, one shall be a member of the non-academic staff, one shall be a member of the manager's advisory council and one shall be representatives of the administration.

(2) Selection of Members - Members shall be appointed by the President of the College. Each of the groups listed below will nominate three (3) candidates. The President will appoint one member from each pool of candidates. The President shall also designate one (1) alternate from each of these groups:

- (a) Faculty Caucus
- (b) Staff Caucus
- (c) Manager's Advisory Council
- (d) President's Staff
- (e) Student Government

(3) Appointment of Chair - The President shall appoint the Chair.

(4) Term of Appointment

(a) To assure cumulative experience and development of expertise as well as continuity and uniformity of decisions, the terms of regular members will be of extended duration. The student shall be appointed for two (2) years. Members of each of the other groups (faculty, non-academic staff, and administrators) shall be appointed for five (5) years. Any member whose term has expired and who is willing to continue to serve on the committee may be reappointed by the President of the College.

(b) The President shall appoint one or more persons to serve temporarily as a member of the committee to fill a vacancy or ensure a quorum, or in response to a request from the Chair to avoid delay in proceedings. The term of temporary appointment continues for the duration of the proceedings or until the temporary appointee is replaced by a regular member.

(5) Removal of Members - The Committee Chair may either permanently or temporarily remove or replace any regular member of the committee under the following circumstances:

- (a) In response to a request from those responsible for the nomination of the member;
- (b) In response to a request from a majority of the committee members;
- (c) In response to a request from the EO;
- (d) In response to a request from a committee member that he/she be excused;
- (e) In response to a request from a party who raises a legitimate concern regarding a conflict of interest.

If any person or group other than the member requests removal, that member will have an opportunity to rebut any evidence presented in support of the request for removal. If a concern as enumerated above is raised about the Chair, the President of the College will make the determination about either permanently or temporarily removal from the committee.

(6) Quorum - There must be a member from each of the four constituent groups specified above to constitute a quorum.

(7) Authority of the Committee - The committee may: (1) call student and employee witnesses to testify or to be present during a hearing, and obtain other evidence held by the College or any student or College employee; (2) arrange with the College EO for appropriate funding and staff support to facilitate hearings; (3) hold pre-hearing conferences; (4) issue hearing orders; (5) hold formal hearings and control conduct of such hearings; and (6) make decisions, findings of fact, and recommendations, including recommended sanctions, to the President by vote of a majority of the regular members involved in the hearing process.

#### (L) Filing an Appeal

(1) A request for a hearing before the College Discrimination Grievance Committee must be filed within five (5) working days, of the receipt of the EO's decision, unless good cause can be shown for an extension of time. The request for a hearing must be filed with the EO. The request for a hearing must be in writing and must describe the appellant's desired outcome; as well as describe how the appellant believes the EO:

- (a) exhibited unfair bias which influenced the result of the investigation;
- (b) failed to conduct a thorough investigation;
- (c) issued arbitrary findings and recommendations;
- (d) had a conflict of interest; or
- (e) issued findings and recommendations that if adopted would result in substantial injustice.

(2) As soon as practicable, the EO will provide the non-appealing party and the Chair of the Discrimination Grievance Committee with a copy of the written appeal.

(M) Standard of Review - The committee reviews the findings and recommendations of the EO. The committee may approve, overturn, or modify the findings and recommendations of the EO. The committee may overturn or modify the EO's findings and recommendations if it finds that the EO: (1) exhibited unfair bias which influenced the result of the investigation; (2) failed to conduct a thorough investigation; (3) issued arbitrary findings and



recommendations; (4) had a conflict of interest; or (5) issued findings and recommendations that if adopted would result in substantial injustice.

(N) Notice of Hearing - Within ten (10) working days of receipt of the written request for a hearing, the EO will notify the Complainant and the Respondent of the time and place of the formal hearing before the Discrimination Grievance Committee. This process might be extended during periods between academic semesters when a quorum of the committee cannot be convened. The hearing will normally be scheduled within thirty (30) days of receipt of the written appeal. If such an appeal causes a significant delay, the EO will consider interim measures, as described above, to continue to protect the parties during the process.

(O) Preparation for and Conduct of the Hearing

(1) Written Statements on Appeal - Within ten (10) working days of filing the appeal, the party appealing the decision must submit to the EO the following information:

- (a) detailed statement of facts relevant to the complaint or report of discrimination, hostile environment harassment, sexual misconduct, stalking, or retaliation;
- (b) names and addresses and anticipated testimony from witnesses to be called;
- (c) copies of any documents which will be submitted as evidence;
- (d) additional materials the party believes the committee should obtain prior to the hearing;
- (e) reference to the portion of the policy alleged to be violated;
- (f) specific remedy(ies) requested; and
- (g) whether the party will be represented by legal counsel and the identity of the counsel.

(2) The non-appealing party may also submit the information described in (a) through (f), above. If the non-appealing party will participate in the hearing, that party must notify the EO as described above at (g) whether he or she will be represented by legal counsel. In cases in which the non-appealing party chooses not to participate in the hearing, the EO will provide to the Discrimination Grievance Committee, in addition to the written investigation report, any additional documents or other materials, and names and addresses of any witnesses the EO believes should provide information to the Committee at the hearing.

(3) Legal Counsel Representation - Both parties have a right to be represented by legal counsel. If either party chooses to be represented by legal counsel, the College's Legal Counsel will be present to ensure that the rights of all interested persons and the College are respected. The role of a party's attorney shall be limited to consultation with the attorney's client and client witnesses.

(4) Forwarding Appeal Documents - The EO will forward copies of the EO's written investigation report; the above-listed materials; and any additional evidence relevant to

the matter to the members of the Discrimination Grievance Committee at least five (5) days prior to the hearing.

#### (5) Pre-hearing Conference

- (a) At any time within five (5) days prior to the date of the formal hearing the Chairperson of the Discrimination Grievance Committee may call a pre-hearing conference. Topics discussed at a pre-hearing conference may include, but are not limited to: (a) whether the evidence presented is complete; (b) whether additional investigation is required; (c) whether additional witness should be called; and (d) time limits and order of presentation of evidence at the hearing. At the request of any party, the Committee Chairperson will conduct separate meetings with the appellant and the respondent for purposes of the pre-hearing conference.
- (b) With concurrence of a majority of the Discrimination Grievance Committee, the Chair may decide to: set aside the hearing date for any period up to ten (10) days for additional investigation, to obtain additional witnesses or evidence.

#### (6) The Hearing

- (a) The Chair of the Discrimination Grievance Committee will conduct the hearing. The hearing will be a non-adversarial proceeding and strict rules of evidence will not be applied. However, the Chair of the Committee may limit or refuse to allow evidence or testimony that is not reasonably related to a determination of whether a violation of the policy occurred.
- (b) The hearing will be conducted to assure fairness and accuracy in fact-finding. The parties and witnesses will address the members of the Committee rather than each other. The Chair will be the final arbiter of all matters of procedure. All hearings are closed to the public.

(7) The Decision - Within ten (10) working days of the conclusion of the formal hearing the Discrimination Grievance Committee will submit a decision in writing to the parties, the EO and to the President. The written decision will contain the following:

- (a) A summary of the allegations including a description of the harm alleged to have been caused;
- (b) A summary of the response to the allegations;
- (c) A statement of the relief sought by the Complainant if known, or of the recommendation of the EO, if applicable;
- (d) Specific reference to the portion(s) of the policy(ies) alleged to have been violated;
- (e) Analysis of whether the EO:

- (i) exhibited unfair bias which influenced the result of the investigation;
  - (ii) failed to conduct a thorough investigation;
  - (iii) issued arbitrary findings and recommendations;
  - (iv) had a conflict of interest; or
  - (v) issued findings and recommendations that if adopted would result in substantial injustice; and
- (f) Recommendations, if any, regarding redress of the complaint as well as any other recommendations, as applicable, for precluding further policy violations.

#### (8) Action on Decision

- (a) The President will review the Committee's decision.
- (b) The President's review is limited to determining:
  - (i) Whether the evidence provides a reasonable basis for the resulting decision; and
  - (ii) Whether specified procedural errors were so substantial as to deny a fair hearing to either party.
- (c) Within ten (10) days of receipt of the Committee's decision, the President will notify the Committee Chair, the EO, and the parties, in writing, of the decision relative to each of the findings and recommendations forwarded by the Discrimination Grievance Committee.
- (d) The EO will distribute copies to Committee members and to the parties.

#### (P) Conflict of Interest and Training

- (1) All College officials who are involved in the discrimination grievance process, including the EO, designated investigators, Discrimination Grievance Committee, and Discipline Authorities, will have adequate training. Training will address, but is not limited to, recognizing and appropriately responding to allegations of discrimination, harassment, including hostile environment harassment, sexual misconduct, and retaliation, conducting investigations, protecting confidentiality, and recognizing the link between alcohol and drug use and sexual assault and sexual harassment.
- (2) The names of the investigator and the individuals who will serve on the Discrimination Grievance Committee for a particular matter will be readily accessible. These individuals must promptly disclose any potential conflict of interest they might have in a particular case. In the rare situation in which an actual or perceived conflict of interest arises between an Investigator, or member of the Discrimination Grievance Committee, that conflict must be disclosed to both parties.

#### (Q) External Complaints

- (1) If you filed a complaint with the EO and believe the College's response was inadequate, or you otherwise believe you have been discriminated against by the College on the basis of race, color, national origin, sex, including sexual harassment, disability age, or retaliation, you may file a complaint with the Office for Civil Rights (OCR) of the U.S. Department of Education or the Educational Opportunities Section (EOS) of the Civil

Rights Division of the U.S. Justice Department of Justice, and a complaint based on religion with EOS of the U.S. Justice Department.

- (2) As a student or employee, if you filed a complaint with the EO and believe the College's response was inadequate, or you otherwise believe you have been discriminated against by the College on the basis of race, color, national origin, sex, including sexual harassment, disability, age, religion, creed, pregnancy, marital status, familial status (housing only), or political beliefs, or retaliation, you may file a complaint with the Ohio Civil Rights Commission.

Effective: July 1, 2015

Expires: July 1, 2020

Review Dates: 12/15/14, 7/1/15