

## PROCEDURES FOR FILING COMPLAINTS OF DISCRIMINATION AND HARASSMENT

*This policy and procedure is provided for the campus community. CSUB employees can contact the Director of Human Resources, Kellie Garcia, directly with any questions.*

These procedures are designed to provide an opportunity to resolve student allegations of discrimination, including sexual harassment. The specific procedures applicable to complaints by employees who are covered by collective bargaining agreements or system-wide procedures may be found at

[www.calstate.edu/hr/ComplaintProcedures.pdf](http://www.calstate.edu/hr/ComplaintProcedures.pdf) and  
<http://www.calstate.edu/eo/EO-927.html>.

Persons who believe they are being or have been subjected to discriminatory acts are encouraged to report such acts as soon as possible after an incident. Delay in taking formal action regarding an incident might foreclose access to federal and state investigative agencies, respectively. Filing a complaint with CSUB is not a prerequisite to filing a complaint with a federal or state agency.

### **Procedures:**

1. Individuals, who believe they are or may have been victims of discrimination and/or discriminatory harassment, may initiate either informal resolution or file a formal complaint.
2. Informal Inquiry: Prior to engaging in the informal resolution process or filing a complaint, individuals may informally inquire about the grievance procedure. The purpose of this inquiry is to provide persons who are concerned that they might have a discrimination complaint with an opportunity to receive information and advice about the definition of discrimination, the legitimacy of their concerns, and the procedures that exist for resolving complaints. Such inquiries can be made at the following offices:
  - a. For inquiries made by or against staff, contact the Director of Human Resources (Administration 104, (661) 654-2266).
  - b. For inquiries made by or against faculty, contact the Office of the Provost and Vice President for Academic Affairs (Administration 100, (661) 654-2154).
  - c. For inquiries regarding incidents involving solely students as parties, contact the Student Ombudsman (Health Center 13, (661) 654-3366).
3. Informal Resolution Process. This process seeks to provide an opportunity for an informal, yet fair, resolution of a reported incident, while preserving, to the greatest extent possible, the confidentiality of the parties involved in an atmosphere of mediation and conciliation. At any time during the informal inquiry and resolution process, the person making the inquiry may initiate a formal complaint. Individuals may contact the following offices to initiate the informal resolution process.

- a. For any incidents involving staff as either party, inquiries can be made to the Director of Human Resources (Administration 104, (661) 654-2266).
- b. For incidents involving faculty as either party or incidents involving solely students as parties, inquiries can be made to the Office of the Provost and Vice President for Academic Affairs (Administration 100, (661) 654-2154).

A confidential record of informal resolutions shall be maintained in the Office of Human Resources for incidents involving staff as either party and in the Office of the Provost for incidents involving faculty as either party or solely students. Both parties are encouraged to keep the results of the resolution confidential.

If informal resolution is satisfactory to the complainant, the complainant is precluded from subsequently filing a formal complaint under these procedures based on the same underlying facts and circumstances unless it is demonstrated to the satisfaction of the Provost and Vice President for Academic Affairs or the Director of Human Resources that the terms and conditions of the resolution, if any, have been violated. However, individuals are not precluded from filing a new complaint based on new facts.

The University, under the charge of protecting its members from discrimination, may have a legal duty to initiate an investigation, a resolution, disciplinary action, or steps to protect the alleged victim even if a formal complaint is not filed and independent of the intent or wishes of the person making the informal inquiry.

#### 4. Formal Complaints

A complaint must be submitted no later than 90 calendar days after the most recent allegedly discriminatory act occurred or no later than 90 calendar days from the time that the complainant learns or reasonably should have known about the allegedly discriminatory act. This deadline may be extended based on extenuating circumstances.

An individual files a complaint by filling out and providing a complaint form to one of the following offices:

- a. For complaints filed by or against staff, the Director of Human Resources (Administration 104, (661) 654-2266).
- b. For complaints filed by or against faculty or where both parties are students, the Office of the Provost and Vice President for Academic Affairs (Administration 100, (661) 654-2154).

The complaint form will include:

- a. The full name, address and telephone number of the complainant, who must be the individual claiming to be harmed by the discrimination;
- b. The name of person(s) alleged to have committed a discriminatory act;



complaint constitute a violation of CSUB policies. In doing so, the investigator shall assemble statements from witnesses, documents and other relevant evidence, and interview witnesses and other identified individuals who have or may have information concerning the allegations set forth in the complaint.

Upon completion of an investigation, the investigator will make findings of fact regarding the allegations, which s/he shall reduce to an investigative report and which shall be submitted to the Provost and Vice President for Academic Affairs, if the complaint involves students or faculty or Director of Human Resources if the complaint involves staff employees.

After review of the investigative report, the Provost, Director or Designee shall evaluate the evidence in accordance with CSUB policies related to unlawful discrimination or harassment, and shall make a Finding of "Cause" or "No Cause" regarding the allegations. The Provost, Director or designee shall notify complainant in writing of the finding of "Cause" or "No Cause." Such notice shall inform the complainant of the outcome of the complaint, including sufficient detail so as to permit an informed decision as to whether to appeal the finding. The Provost, Director or designee will also notify the accused party. This information is to be treated as confidential and is not to be disclosed to third parties.

CSUB will make its determination within 90 calendar days from the date that the complaint was filed. If the complaint investigation cannot be completed within 90 calendar days, the complainant and respondent(s) will be informed and agreement of the timelines will be obtained in writing from all parties.

If the Provost, Director, or designee finds "Cause", s/he shall also issue a separate recommendation regarding corrective actions calculated to end the discrimination and address its effects. This may include individual remedies for the complainant and a range of formal or informal disciplinary measures or other personnel actions. If it is determined that disciplinary charges should be initiated against an employee, disciplinary proceedings shall be conducted in accordance with the current applicable collective bargaining agreement or, for charges against administrators or other non-represented employees, appropriate University policies shall be utilized. If it is determined that disciplinary charges should be initiated against a student, the applicable disciplinary procedures will be applied according to the Student Code of Conduct under Rights and Responsibilities Policy.

Whenever any information concerning recommended corrective action in connection with allegations of discrimination is provided to the complainant, such information shall be provided on a confidential basis. Failure on the part of the complainant to respect confidentiality could result in civil action initiated by person(s) alleged in the complaint to have committed a discriminatory act.

While the complainant may withdraw a complaint in certain circumstances, the CSUB has an obligation to respond to reports of discrimination and investigate complaints where necessary to ensure an educational environment free of discrimination, regardless of whether a complainant wants to proceed with a complaint.

Appeal Process: Following receipt of a finding, the student or the employee filing a complaint may seek to have the finding reviewed by the President. The issues raised on appeal shall be limited to those issues raised during the investigation. To secure an appeal, the student or the employee must file a written request no later than fourteen (14) calendar days from the date on which he/she received the finding. The President or Appeals Designee shall consider the facts in support of the request and develop any additional facts deemed necessary. The President or Appeals Designee shall complete the review in a timely manner and shall prepare and provide a written decision to complainant, the Provost or Director and to those individuals who received a copy of the finding. The decision by the Appeals Designee shall be final.

An investigation shall be considered complete and the President or Appeals Designee shall close the investigation after the period has passed within which an appeal may be timely filed, if no appeal has been filed, or following a final decision. A matter also may be closed administratively when the Provost or Director decides that further investigation is either impossible or to the situation has become moot.

Confidentiality: The Provost, Director, Student Discipline Coordinator, or designee and the parties shall respect confidentiality of information obtained during the course of an investigation, except where disclosure is required by an obligation imposed on the University by law, to investigate a Complaint or to advise parties to the complaint of the outcome of an investigation or to facilitate other legitimate University processes. As a means of fulfilling its obligation to create and maintain an environment free from discrimination and discriminatory harassment, the University may conduct reasonable and appropriate investigations designed to assess whether a violation of the University policies related to nondiscrimination, including sexual harassment has occurred and this activity may require enlarging the scope of disclosure.

Retaliation Prohibited: Threats or other forms of intimidation or retaliation against any person who files a complaint of discrimination or sexual harassment, participates in an investigation or opposes an unlawful discriminatory practice or policy are prohibited and shall form an independent basis for investigation under the procedures. Employees and students are expected to cooperate in an investigation into a complaint of discrimination or sexual harassment.

Complaints Filed with Outside Agencies: CSUB acknowledges that individuals have rights to file charges with external agencies at any time within that agency's deadlines, and that those charges may be filed concurrently with complaints that are filed with CSUB in accordance with these procedures. The fact that a charge has been filed with an external agency will in no way deter an investigation by the CSUB concerning the same or similar events, so long as the complaint is filed in a timely manner pursuant to these procedures.