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P6Hx23-1.34 PROCEDURE: DISCRIMINATION GRIEVANCE

I. Purpose

To provide a procedure for the review, investigation and resolution of matters regarding students, employees, or applicants for admission to the College alleging discrimination based upon race, color, ethnicity, religion, sex, age, national origin, marital status, sexual orientation, gender identity, genetic information or against any qualified individual with disabilities.

All supervisory and administrative personnel, faculty and staff are expected to become familiar with this procedure and to assist the College and a complainant whenever instances of discrimination, as described in this procedure, are observed or reported.

II. Definitions

- A. Discrimination—treating an individual(s) arbitrarily or differently because of their membership in a protected class including race, color, ethnicity, religion, sex, age, national origin, marital status, sexual orientation, gender identity, genetic information or disability.
- B. Complainant—any employee, student or student applicant who feels that he or she has been adversely impacted by a discriminatory situation or incident regarding admission to the College; admission to programs; treatment of students; or terms, conditions or privileges of employment, which was caused by an individual(s) or group of the College.
- C. Alleged discriminating party—the individual(s) or group of the College who is believed by the complainant to be creating, or to have created, the discriminatory situation or incident.
- D. Workday—includes Mondays, Tuesdays, Wednesdays, Thursdays and Fridays and shall exclude Saturdays, Sundays, and Board of Trustees' approved holidays.
- E. Calendar day—all days on the calendar including Board of Trustees' approved holidays.

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III. General Provisions

- A. This Procedure is available to current students and student applicants, applicants for employment, as well as current employees of the College. This Procedure is also available to individuals who were students or employees at the time of the alleged discrimination.
- B. The EA/EO Office serves as the College's primary resource on matters relating to alleged discrimination; however, some matters may be referred for review and/or handling by the College administration or Human Resources, as deemed appropriate.
- C. If an individual has a complaint he/she wishes to discuss without recourse to this Procedure, he/she is free to do so. The EA/EO Office is available to informally discuss complaints or concerns to ascertain the best course of action in accordance with the College's policy and procedures.
- D. Allegations concerning sexual harassment should be referred to the Office of the General Counsel for review pursuant to the Board of Trustees' Rule 6Hx23-2.011. Allegations of other types of harassment as defined in Rule 6Hx23-2.010 may be brought in accordance with the procedures outlined therein. Grievances relating to personnel policy and employment terms or conditions may be brought under the College's Procedure on "Personnel Grievances," P6Hx23-2.021.
- E. A person filing a complaint or grievance may not process a grievance through two separate grievance procedures on the same issue(s) nor can the person revert to one procedure if a decision rendered pursuant to another procedure is not favorable to the person submitting the grievance.
- F. It is a violation of this Procedure to retaliate against any person who has filed a complaint regarding discrimination. It is also a violation of this Procedure to retaliate against any person involved in the investigation, including witnesses, of a complaint. Any retaliatory actions taken will be investigated and dealt with through appropriate disciplinary action.

IV. Reporting and Channels of Review

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- A. In the event that an employee, student or student applicant feels that he/she received discriminatory treatment, the individual shall report the matter to the College administration within 90 calendar days of the most recent alleged discriminatory act or event (see list of individuals designated to receive such reports and other reporting information on the College's EA/EO website). It is important that the complainant explain what he or she would like to result from the resolution of the complaint.
- B. Upon receiving a report of alleged discrimination that is made by a student, faculty, or staff against faculty or staff:
1. The EA/EO Office may refer the matter for review; investigate the matter directly; facilitate the investigation; and/or make recommendations regarding such investigation(s) as deemed appropriate.
 2. Such investigations or reviews may also require the assistance or input from the employee's supervisor(s), Human Resources and/or others as deemed necessary.
- C. Upon receiving a report of alleged discrimination that is made by a student against a student:
1. The EA/EO Office shall refer the matter to the appropriate Associate Provost or Dean on the campus. The EA/EO Office may assist the Associate Provost or Dean with such complaints if deemed necessary and if requested by the Associate Provost or Dean.
 2. Such investigations may also require the assistance or input from other campus administrators or faculty as deemed necessary.

V. Informal Resolution

- A. The goal of informal resolution is not to determine whether there was intent to discriminate but to ensure that the alleged discriminatory conduct ceases and that the matter is resolved promptly at the lowest possible level.
- B. Since no disciplinary action is taken if a matter is informally resolved, informal resolution would not be appropriate for severe cases of alleged discrimination or when the accused has been the subject of a previous formal complaint.

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C. Should the complainant first prefer to attempt to resolve the dispute informally, such actions to resolve the matter may include, but are not limited to, the following as deemed appropriate:

1. Speak personally with or write a confidential (no third person receives a copy) letter or email to the alleged discriminating party informing him/her of the alleged discriminatory conduct, the resulting impact on the complainant, and what the complainant expects next, usually "I want the discriminatory conduct to stop," or "I want to be treated the way a student or fellow employee should be treated." This is a personal step taken solely between the parties.
2. The complainant may request and/or the College may recommend that attempts be made to resolve the matter informally with the assistance of the Equity Office acting as a mediating party or appointing a third party within the College to mediate. The goal here is to allow the parties to resolve complaints without a formal investigation and without elevating the complaint within the College. Attempts to resolve the matter may include:
 - a. Speaking with the alleged discriminating party on behalf of the complainant;
 - b. Meeting with the alleged discriminating party and the complainant together to facilitate communication and explain the College's policies;
 - c. Requesting that a workshop be conducted in the department or area for purposes of education and/or sensitivity training.
 - d. Working with the complainant to facilitate other acceptable informal solutions to resolve the matter.

It is anticipated that any third party shall endeavor to follow up in order to bring resolution to the situation. However, if the problems do not cease after taking the informal actions, complainant is also encouraged to contact the third party who assisted with the matter, the Equity Officer and/or anyone else at the College in order to proceed through other resolution channels as deemed appropriate.

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D. There is no requirement that informal resolution steps be used. Additionally, complainant is also free to withdraw from the informal resolution process and file formally with the College.

VI. Formal Process

A. Step 1: Initiating Formal Process

For matters not resolved using the Informal Resolution process above, the complaining party may submit the Discrimination Review Form to the EA/EO Office within 90 calendar days of the alleged discriminatory activity as the first step in the formal process of bringing a grievance. This form contains the names of the persons involved and a description of the facts and circumstances surrounding the alleged discriminatory activity.

B. Step 2: Initial Intake and Review

After receiving the Discrimination Review Form and conferring with the complainant, the EA/EO Officer or designee(s) will contact the alleged discriminating party to discuss the matter and determine his/her side of the story. The alleged discriminating party will also be given the opportunity, should he or she so desire, to submit a written response to the allegations. The EA/EO Officer or designee(s) shall also arrange whatever additional meetings are necessary to collect the information needed to review the matter.

C. Step 3: Completion of Review and Communication of Findings

Within 20 workdays of receiving the Discrimination Review Form, or as soon as possible thereafter, the EA/EO Officer or designee(s) will gather the needed information, conduct the necessary meetings, and communicate the findings of the grievance to both parties. The EA/EO Officer or designee(s) may make recommendations to the administration as a result of the findings. The findings may also be provided to other College administrators at any stage of the process, as the EA/EO Officer or designee(s) deems appropriate.

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D. Step 4: Consideration of Mutual Resolution

It is understood that the EA/EO Office or designee(s) will endeavor to encourage the parties to reach a mutual resolution as part of the formal process, as appropriate. To this end, the EA/EO Officer or designee(s) will offer the parties an opportunity to meet or will meet with the parties individually to mediate any unresolved issues or concerns.

When deemed necessary, a resolution to a dispute may be formally documented by a mutual agreement of the parties, with the counsel of the EA/EO Officer. In these cases, a Mutual Resolution of Dispute Form shall be signed by all parties and the EA/EO Officer or designee(s) shall set forth the terms of the agreement.

When a Mutual Resolution of Dispute is entered into, a copy of the Mutual Resolution of Dispute shall be provided to the parties and may be forwarded to any other College administrators that the EA/EO Office deems appropriate.

E. Step 5: Appeal Process

If the complaint is not mutually resolved following the procedures identified above, either the complainant or the alleged discriminating party may request, in writing, that the findings of the EA/EO Officer or designee(s) be secondarily reviewed. The written request shall be made to the EA/EO Officer or designee(s) in writing within 15 workdays of the receipt or communication of the findings. Failure by either party to make such a request within 15 workdays of receipt or communication of the findings will constitute a waiver of the right for a secondary review of the complaint. Upon receipt of a request for a secondary review, the EA/EO Officer or designee(s) will forward the necessary information to the appeals officer designated and appointed by the President.

F. The appeals officer will review the findings and any supporting documentation or information and make a final determination. The appeals officer will notify all affected parties within a reasonable period of time and initiate any action which he/she deems necessary. The decision of the appeals officer is final.

EA/EO Forms identified herein are available from the EA/EO Officer, and may be found on the College's website.

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