

Pensacola State College

**Office of Equal Opportunity Compliance**

**Guidelines for Filing a Discrimination and/or Harassment Complaint**

**Summary**

The following is provided as a brief outline that describes the process that is followed by Pensacola State College (PSC) when investigating complaints based on discrimination or allegations of sexual harassment/misconduct. Complaints alleging discrimination or harassment are referred to the College's designated "compliance officer," the Executive Director of Equal Opportunity Compliance. As soon as Administration is made aware that a discrimination or sexual harassment/misconduct complaint has been filed, a detailed fact-finding investigation is initiated.

At all times when conducting an investigation, PSC observes the fundamentals of due process in order to reach a fair, equitable, and just resolution of the grievance.

**Definition**

An individual who has filed a discrimination complaint is alleging that the College's policy of nondiscrimination has been violated. Specifically, an individual is alleging that they were discriminated against based on race, color, ethnicity, sex, creed, age, religion, marital status, national origin, and/or disability. In addition, the College prohibits discrimination and retaliation based on sexual orientation, gender identity, pregnancy, and/or genetic information.

**Who may file a discrimination/harassment complaint?**

Employees and students may file a complaint. In addition, applicants for admission or applicants for employment may file a discrimination complaint. Individuals who are employees of a temporary employment agency and who are assigned at PSC as a work location may file a complaint through their employer. Once the discrimination complaint by an employee of a temporary employment agency is received by PSC, the matter will be investigated by the compliance officer in cooperation with the temporary employment agency in the same way discrimination complaints are investigated involving PSC employees and students.

Faculty filing a discrimination and/or harassment complaint may file under the guidelines covered under the Collective Bargaining Agreement, or they may use the employee grievance process.

**Grievance Form**

An employee, student, or individual wishing to file a grievance may obtain a form from the Office of Equal Opportunity Compliance, the Human Resources Department, or online on the Pensacola State College website.

### **Reporting Time Frame**

It is recommended that a discrimination complaint be filed as soon as possible. However, complaints may be filed within 180 days of the last act of discrimination. If the complaint involves matters that occurred longer than 180 days, the complaint must submit detailed information explaining why the complaint was not filed within the 180-day time period. Depending on extenuating circumstances, the time period may be waived.

### **Investigation Time Frame**

The College will make every effort to resolve discrimination and harassment grievances within sixty (60) days. This timeline serves as a guideline rather than a rigid restriction as the amount of time to complete an investigation will depend on the particular circumstances involved. For example, the number of individuals who must be interviewed, scheduling the interviews, a review of documents, records, evaluations, and other evidentiary material may all affect the amount of time needed to complete the investigation. The complaint and respondent will be updated if an investigation is going to be longer than anticipated due to the circumstances involved.

### **Procedure**

Once a discrimination complaint has been received, the compliance officer will review the information and will contact the complainant to schedule an initial intake. During the initial intake, the compliance officer will explain the process of the investigation to the complainant, will gather information regarding the names of witnesses or potential witnesses, and may ask clarifying questions regarding information provided on the grievance form. The compliance officer will also explain the College's retaliation policy to the complainant.

Following the initial intake, the respondent will be notified that a complaint has been filed against them and will be provided with information regarding the process and timeline of the investigation. The respondent will also receive information regarding the College's retaliation policy. At this time, the appropriate administrator, supervisor, dean, vice president, or in some cases, the president, will also be notified of the complaint and the investigation process.

Interviews will be scheduled by the compliance officer via e-mail, phone, or letter with the complainant, respondent, and any witnesses or potential witnesses. The respondent will be provided with an opportunity to review the witness list and to add any additional witnesses or potential witnesses to the list. If the respondent adds any witnesses or potential witnesses, the complaint will receive an updated witness list. All individuals who are interviewed are made aware that the investigation will be discreet and will only involve those individuals who need to know. Witnesses will also be provided information regarding the College's retaliation policy.

Records relating to discrimination and harassment complaints are confidential documents. During the interview process, the compliance officer will ask a series of questions to determine exactly what happened and the facts of the case. Copies of any documents, notes, records, photos, e-mails, or any other material that may provide evidence in determining the facts of the case should be given to the compliance officer during the interview phase of the investigation. In

most cases, the respondent will not be interviewed by the compliance officer until after the complainant has been interviewed. Follow up interviews may be scheduled with the complainant, respondent, or witnesses when new information is made available or to clarify facts of the case.

### **Due Process**

The respondent in any investigation will be given an opportunity through the interview and investigation process to share their side of the events and respond to any allegations that have been made. The respondent will also have the opportunity to provide witnesses, documents, records, or other materials that are relevant to the allegations that they feel support their position or version of events. If the compliance officer does not determine a witness or document to be relevant to the allegations, information explaining the decision will be provided to the respondent and may also be included in the final investigative report.

### **Investigative Report**

Once all interviews have been completed and all records, documents, and/or evidence have been reviewed, the compliance officer will compile an investigative report which may include the following information:

1. A summary of the case
2. Summaries of the statements given by all of the individuals interviewed
3. A statement of the law and/or definitions of the law that apply in the case
4. An analysis of the facts with regard to each allegation filed in the grievance
5. A conclusion (findings)
6. Recommendations
7. Evidentiary exhibits

A copy of the investigative report will be kept on file in the Office of Equal Opportunity Compliance. In some cases, the full report will be given to the appropriate administrators (supervisors) and/or the College President.

### **Investigative Summary and Notice of Conclusion**

Once a determination is made, a letter informing both the complainant and respondent of the outcome will be mailed either by e-mail, certified mail, or on-campus delivery. A copy of this letter and investigative summary will be sent to the appropriate administrator(s), supervisor(s), and in some cases, the College President.

### **Disciplinary Action**

The compliance officer does not take any disciplinary actions following an investigation. Disciplinary action can be initiated by the appropriate administrator (supervisor), and the level of disciplinary action is also determined by the appropriate administrator (supervisor). The Human Resources Department should be consulted in all matters concerning disciplinary action.

Depending on the severity or egregiousness of the inappropriate behavior or violation of the College's policy of nondiscrimination, discipline may include verbal warnings, written

reprimands, probation, suspension, possible termination, or employee training. All disciplinary actions are coordinated through the Human Resources Department and up the chain of command for approval.

### **Need for Immediate Action**

During the course of the investigation, if it becomes apparent that immediate action must be taken to avoid a harmful or dangerous situation, the administration will take the appropriate action to protect the parties involved.

### **Complaints filed with Agencies Outside of the College**

Discrimination or harassment complaints may be filed internally with the College, or an individual may file directly with an outside agency such as the Florida Commission on Human Relations (FCHR), the Equal Employment Opportunity Commission (EEOC), the Office of Civil Rights (OCR), or the Veterans Administration (veterans preference claims). If a complaint has been filed with an outside agency, once the College receives written notification that a complaint has been filed, it will respond to the complaint. The compliance officer, or designee, will investigate the complaint and provide the outside agency with any requested documentation within the designated time frame. Occasionally, due to the nature of the case or because the College is closing for a break, additional time may be requested to respond to the allegations.

After reviewing the information provided by the College, the outside agency will eventually provide the College with written notification as to the outcome of the agency's review. The agency has a range of decisions that can be made, such as finding no cause and dismissing the case, requesting mediation or conciliation, or notifying the claimant that they may request an administrative hearing by filing a petition for relief. Once the College receives notification that a case has been dismissed by an outside agency, the College will close the case internally.

### **Retaliation**

College policy prohibits retaliation and under no circumstances will retaliation be tolerated. If a student or employees, including those who have served as a witness in an investigation, believe they are being retaliated against based on their participation in an investigation, the Office of Equal Opportunity Compliance should be notified immediately.