

Procedure 5.00A

Discrimination and Harassment

Purpose

Kansas City Kansas Community College (KCKCC) is committed to providing an inclusive and welcoming environment for all members.

In accordance with the College's Discrimination and Harassment Policy 5.00, this procedure explains the process that will apply when an employee files a complaint of discrimination or harassment.

I. Discrimination and Harassment Defined

Discrimination

Discrimination is the denial of opportunity to, or adverse action against, a person because of that person's race, color, religion, national origin, age, disability, sex/gender (to include orientation, identity or expression), military/veteran status or any other characteristic protected by law and/or KCKCC policies. Actions or policies that provide unequal opportunity or adversely affect the terms and conditions of a person's employment or learning environment at KCKCC and which are motivated or based, in whole or in part, upon any of the foregoing categories can constitute discrimination in violation of KCKCC's non-discrimination policy.

Harassment

A form of discrimination that occurs when verbal or physical conduct based on an individual's protected status unreasonably interferes with that individual's work performance or creates a hostile work environment for that individual, including affecting their personal safety or participation in college-sponsored activities.

- A. **Hostile Environment** -Unwelcome conduct by an individual(s) against another individual based upon protected category/status that is sufficiently severe or pervasive that it alters the conditions of employment and creates an environment that a reasonable person would find intimidating, hostile, or offensive. The determination of whether an environment is hostile must be based on all of the circumstances. These circumstances could include the severity of the conduct, the frequency, and whether it is threatening or offensive.
- B. **Sexual Harassment** – includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct or other verbal or physical conduct or communication of a sexual nature when:
 - 1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
 - 2. Submission to or rejection of such conduct by an individual is used as a basis for an employment decision affecting that individual; or
 - 3. Such conduct has the purpose or effect of creating a hostile work or education environment.

II. Reporting Incidents of Discrimination or Harassment

An individual who believes they have been the subject of discrimination or harassment is required to report the incident to chief human resources officer or designee ("investigator"). The report should

be reported promptly and no later than 180 calendar days of the most recent incident. Any student, faculty or staff who knows of, receives information about or receives a complaint of discrimination or harassment is required to report the information to the chief human resources officer or designee.

All supervisors are required to report any complaints they receive of discrimination or harassment to the chief human resources officer or designee.

III. Employee representation

Staff employees

During the investigation and determination process, both a complainant and respondent are permitted to have a support person accompany them to investigatory meetings for the purposes of support throughout the investigation process. The support person will not be permitted to stand in for, speak for or act on behalf of the complainant or respondent. The support person must agree to maintain confidentiality of the process.

Professional employees

In accordance with applicable collective bargaining agreements, represented employees may have the right to request and receive union representation during an investigatory meeting. The union representative will not be permitted to stand in for, speak for or act on behalf of the complainant or respondent. The union representative must agree to maintain confidentiality of the process.

IV. Complaint

Once the allegation/complaint is received by the chief human resources officer or designee, they will provide the employee with a copy of the discrimination and harassment policy and procedure. The chief human resources officer or their designee will discuss the employee's allegation/complaint with them and familiarize the employee with the process.

Any anonymous complaints received regarding harassment or discrimination will be responded to the extent possible. The response to such reports may be limited if information contained in the reports cannot be verified by independent facts.

V. Investigation

Every allegation/complaint will be investigated promptly and thoroughly, including any alleged instances of retaliation, intentional false charges or breaches of confidentiality. The chief human resources officer or designee may request that an independent investigator conduct the investigation at any time during the process.

VI. Interim Actions

Under appropriate circumstances, the chief human resources officer or designee, may reassign or place an employee on administrative paid leave at any point in time during the investigation process. The determination to reassign or place an employee on paid administrative leave will be a result of the nature of the alleged behavior, the relationships between the parties, the context in which the alleged incidents occurred and/or other relevant factors.

VII. Methods of Resolution

A. Informal Resolution – This informal process is intended to resolve actual or perceived instances of harassment and discrimination through agreement of mutual understanding

between the parties involved at the lowest level. Possible resolutions by agreement of the parties may include but are not limited to: a.) a meeting between the chief human resources officer or designee, the complainant and the respondent; b.) a meeting between the chief human resources officer or designee and the respondent; c.) a recommendation for training course or seminars and/or d.) referral for mediation.

At the conclusion of the informal procedure, each party will be asked to sign an acknowledgement that the informal procedure was performed with their agreement and resulted in a resolution that was satisfactory. Signing the acknowledgement document is the final step in the informal resolution process and entirely voluntary. There will be no adverse consequences for anyone who declines to participate in the informal resolution procedure.

- B. Formal Resolution – A formal complaint may be filed as the first course of action or following the informal complaint process if there is no mutual acceptable resolution during the informal process. The complainant will be asked to provide their allegation in writing to the chief of human resources officer or designee.

The complainant and respondent will be notified that an investigation has been initiated and will have the opportunity to provide any relevant information. The purpose of the investigation is to determine whether it is more likely than not that the alleged conduct occurred and, if so, whether it constitutes prohibited discrimination or harassment.

The investigation should be completed within 60 days following the initiation of the formal complaint unless there are specific circumstances that will impact the investigators ability to complete the investigation in the 60 day timeframe.

At the conclusion of a formal complaint the chief human resources officer or designee will develop a report that identifies the issues, facts gathered, conclusion and recommendations. Both complainant and respondent will be provided with correspondence regarding the conclusion of the investigation.

VIII. Determination

Within five (5) business days of the conclusion of the investigation, the investigator will provide a separate written determination to both the complainant and respondent. The written determination will explain the scope of the investigation and explain where any allegations in the complaint were found to be substantiated or unsubstantiated. In the event the investigator finds that prohibited discrimination occurred, the written determination will include a statement of appropriate corrective and disciplinary action to be taken. The specific disciplinary or corrective action is considered a personnel matter and will not be disclosed to the complainant.

The chief human resources officer or designee in conjunction with the appropriate supervisor will also implement reasonable and appropriate measures to ensure that the complaint is not subject to further discrimination and to remedy the effects of any discrimination that may have occurred.

IX. Appeal Process

Within ten (10) business days after of receipt of the determination, the complainant or respondent may appeal the findings of the investigator. An appeal must be filed in writing to the president or designee. The appeal must consist of a specific and complete written statement outlining the grounds

for appeal and all relevant information to substantiate the basis for the appeal. Appeals are not intended to open a new investigation of the complaint.

The president or designee will issue a decision on the appeal to all parties involved. The decision on appeal should be made within (10) business days from the date the appeal was received. The president may uphold or reverse the finding, decrease or increase the corrective action/disciplinary action or take other action as deemed appropriate. The written decision of the president on the appeal will constitute the final decision and exhaust the complainant's and respondent's administrative remedies under this procedure.

X. Maintenance of Report/Complaint Procedure Documentation

Upon completion of the complaint process, the complaint file will be maintained in a secure location in the Human Resources Department in accordance with applicable records retention schedule.

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