



Procedure No. 2017A

Title of Procedures: Non-Discrimination Procedures

Applies to (check all that apply):

Full-time PIN Faculty ____ Full-time PIN Staff ____ All Personnel ____
Division/Department ____ College X ____

Topic/Issue:

Review and update to current Non-Discrimination Procedures

Background to Issue/Rationale for Policy or Procedure:

(For procedures, cite appropriate approved College Policy addressed)

This procedure is intended to ensure that allegations of discrimination are given serious attention and that prompt and appropriate action is taken by BCCC to eliminate discrimination.

State/Federal Regulations and Other Policies/Requirements (cite if applicable):

Comar - 13A.11.04.19. 19 Affirmative Action and Non-Discrimination.
Title VI of the Civil Rights Act of 1964
Title VII of the Civil Rights Act of 1964
Title IX of Education Amendments of 1972
American Disabilities Act of 1990
Article 49B, Annotated Code of Maryland
Article 64A. Section 12-A-E, Annotated Code of Maryland
The Governor's Executive Order – 01.01.2007.09, Code of Fair Employment Practices

Procedural Language:

A. Procedure for Handling Complaints

GENERAL INFORMATION

A. Definitions:

1. **Designated official** - the Executive Director of Human Resources (for employees) and/or the Vice President for Student Affairs (for students)
2. **Complainant** - the person registering an allegation of discrimination;
3. **Respondent** -- the person alleged to have committed the act(s) of discrimination

B. If the conflict appears to be related to institutional processes rather than to a particular individual, the highest-ranking administrator of the area involved will work with the Executive Director in resolving the complaint.

C. In the event that an allegation of discrimination is made against the Executive Director of Human Resources or the Vice President for Student Affairs, the designated official will be the President.

D. An allegation of discrimination may be registered by any presently enrolled student or by any current employee.

REPORTING ALLEGED DISCRIMINATION

A. Complainant reports the incident to the designated official within 30 days.

1. Employees report incidents of discrimination to the Executive Director of Human Resources.
2. Students report incidents of discrimination to the Vice President for Student Affairs.

B. For complaints to be considered, the Complainant shall:(a) specify the time, place and exact nature of the alleged discrimination, (b) identify the individual, group, organization, or office believed to be responsible for the alleged discrimination, (c) specify the remedy sought.

- C. The designated official will begin an investigation within ten working days from the date of the initial report.
- D. The designated official advises the complainant of the right to process the complaint internally through formal or informal procedures.
- E. The designated official advises complainant of the right to file a complaint with the Maryland Commission on Human Relations within six months of the last act of discrimination or retaliation for filing a complaint.

INVESTIGATION OF COMPLAINTS OF DISCRIMINATION

- A. The designated official gathers information by interviewing Respondent and Complainant, seeking witnesses, documents, etc. The Complainant bears the burden of proving and supplying facts that support the charge of discrimination.
- B. Any failures to cooperate by BCCC personnel or other persons or organizations shall be reported to the Executive Director of Human Resources. The respective Vice President shall determine whether to institute disciplinary action or other sanctions in consultation with the Executive Director of Human Resources.
- C. The investigation should be conducted in a confidential manner and only those persons affected should be involved.
- D. The designated official must receive a written complaint, signed by the Complainant, prior to initiating formal procedures or issuing sanctions against the perpetrator.
- E. All documents related to the complaint shall be considered confidential. However, the filing of a formal complaint will be construed as consent to disclose personal information as necessary. Persons giving information in connection with the complaint shall be advised that all documents are subject to subpoena in any subsequent administrative or judicial proceedings.
- F. The Complainant may withdraw the complaint at any time by submitting a written request to the designated official.
- G. The College's Legal Counsel should be contacted to assist with technical advice as needed.

WRITTEN DETERMINATION

- A. When the designated official determines the findings support the Complainant's allegations, disciplinary action will be taken.
- B. When the designated official determines the findings do not support the Complainant's allegations:
 - 1. The Complainant shall be advised in writing of the reasons that the incident could not be substantiated. The Complainant shall be advised that retaliation for filing a complaint is prohibited.
 - 2. The Respondent shall be advised in writing that the complaint was received and investigated but was not substantiated and advised that retaliation for having received a complaint is prohibited.

APPEALS

- A. The designated official's written determination will include notice to the Complainant and Respondent of the right to appeal to the Executive Director of Human Resources within ten days. Either the Complainant or Respondent may appeal the written determination.
- B. The Executive Director of Human Resources may determine the outcome of the appeal based on the record of the investigation, may interview any person to obtain additional information, or may schedule an informal hearing. The decision to schedule a hearing shall be made solely at the discretion of the Executive Director of Human Resources on a case by case basis.
- C. Hearing Policies and Procedures:
 - 1. All statements of the Complainant, the Respondent and other persons who appear before the Executive Director of Human Resources, will be tape-recorded.
 - 2. The Executive Director of Human Resources will allow a reasonable time for the hearing and each presentation.
 - 3. The Executive Director of Human Resources will have the complainant begin the proceeding with oral and/or written presentation of his/her complaint. The person(s) appearing on behalf of the Complainant will then present supporting statements.
 - 4. The Executive Director of Human Resources will have the Respondent present his/her statement next, with oral and/or

written presentation of his/her response to the complaint. The person(s) appearing on behalf of the Respondent will then present supporting statements.

5. The Complainant and the Respondent will be present during all presentations.
6. Persons supporting the Complainant or Respondent will only be present at the hearing while making statements and responding to any questions from the Executive Director of Human Resources.
7. Chosen advisors may be present during the hearing. Both the Complainant and the Respondent may confer with their respective advisors. However, advisors may not be lawyers and may not participate in the hearing unless specific permission is granted by the Executive Director of Human Resources.
8. Evidence introduced during the hearing or other circumstances may prompt the Executive Director of Human Resources to request additional persons to appear, or to recall persons who have already appeared.
9. Written statements by a supporting individual will not be in order unless the Executive Director of Human Resources determines that such a document is relevant and that the individual is unable to appear in person.
10. The Complainant and the Respondent may introduce new evidence at the hearing only with the express consent of the Executive Director of Human Resources. Arrangements should be made to have copies of material prepared in advance for the Executive Director of Human Resources.
11. At the conclusion of the hearing, first the Complainant and then the Respondent may present summary statements.

D. The Executive Director of Human Resources may reverse a finding of the designated official, if the Executive Director of Human Resources determines that the finding is clearly erroneous.

E. The Executive Director of Human Resources shall inform the Complainant and the Respondent of the decision on the appeal in writing.

F. The Executive Director of Human Resources' written decision represents the final resolution of the allegation of discrimination.

SANCTIONS

A. Disciplinary procedures for students should be initiated by the Vice President for Student Affairs after consultation with the Executive Director of Human Resources. Students may receive disciplinary action, ranging from reprimand to expulsion

B. Disciplinary procedures for classified employees should be initiated in accordance with Merit System regulations (COMAR 06.01.01.45)

C. Disciplinary procedures for faculty and administrative/professional staff should be initiated by the respective Vice President after consultation with the Executive Director of Human Resources.

D. Discipline for discrimination may range from a letter of reprimand, to charges for removal or termination, depending on the circumstances of each case.

Communication of Non-Discrimination Policy

A. The Executive Director of Human Resources and the Vice President for Student Affairs are responsible for disseminating the Non-Discrimination Policy and Complaint Procedure to BCCC faculty, staff, and students. Student Affairs will communicate the non-discrimination policy in the Student Handbook and during orientation. New hires will receive copies of the policy in their employment packet and will be included in the orientation program. The policy can also be found on the college's Intranet <http://bcccenter> under the Policies and Procedures link.

Implementation Date: October 1, 2007

Originator/Division: Human Resources

Approved by the Board of Trustees: September 19, 2007