

TITLE: Personnel

Harassment, Discrimination and Retaliation Employment Policy

Illegal discrimination, harassment and retaliation are prohibited. As such, Dodge City Community College has established both formal and informal procedures to report complaints of illegal discrimination, harassment or retaliation.

Notice of Nondiscrimination

Dodge City Community College is a place where freedom of expression and civility are encouraged. In valuing diversity, the college recognizes the individual differences based on unique ethnic, cultural, gender and political backgrounds, and the differences represented by staff in age, education and physical ability. In a diverse environment, it becomes the responsibility of each employee to respect these individual differences and to refrain from imposing personal viewpoints on other staff or students.

All personnel policies of the Dodge City Community College shall be applied without regard to a person's race, color, age, sex, religion, marital status, national origin, disability, veteran's status, sexual orientation or other factors which cannot be lawfully considered, to the extent specified by applicable federal and state laws.

Dodge City Community College does not discriminate on the basis of sex, race, color, national origin, disability, age, religion, marital status, veteran's status, sexual orientation, or other factors that cannot be lawfully considered in its programs and activities as required by all applicable laws and regulations. Inquiries concerning the College's compliance with its non-discrimination policies may be referred to the Federal Compliance Administrator, 2501 N. 14th Avenue, Dodge City, Kansas 67801, (620) 227-9119 (compliance@dc3.edu) or the Director of Human Resources, 2501 N. 14th Avenue, Dodge City, Kansas 67801, (620) 227-9201 (compliance@dc3.edu).

Prohibited Activity

The person alleged to have engaged in unlawful harassment, discrimination or retaliation shall be considered the "respondent" throughout this procedure. The person to whom the alleged unlawful harassment, discrimination or retaliation is directed shall be considered the "complainant" throughout this procedure.

The Board of Trustees of the Dodge City Community College is committed to providing a working environment free from harassment, discrimination and retaliation. Specifically, the college and its employees shall not participate in any harassment, discrimination or retaliation based on any legally protected class of individuals as described in the Notice of Non-Discrimination above.

Examples of prohibited conduct include, but are not limited to, the following:

- Sexual harassment, defined to include unwelcome sexual advances, requests for sexual favors, and other verbal, physical or visual unwelcome conduct of a sexual nature.
- Harassment or discrimination based on race, gender, national origin, or other legally protected class, defined to include verbal, physical or other conduct of a nature, which is offensive to a person.
- Retaliation against any person for filing a charge or complaint of prohibited conduct.
- Retaliation against the respondent.

Prohibited harassment or discrimination includes any conduct or behavior of an inappropriate nature where:

- Submission to the conduct is made either explicitly or implicitly a term or condition of employment; or
- Submission to or rejection of the conduct which is used, threatened or suggested to be used as a basis of employment-related decisions, including but not limited to promotion, pay, discipline, work assignments or which affects other terms and conditions of employment; or
- Such conduct has the purpose or effect of substantially interfering with the work performance, or creating a hostile, intimidating or offensive atmosphere.

Persons violating this policy will face strict discipline up to and including termination.

Any person believing that he or she has been subject to prohibited harassment, discrimination, or retaliation as set forth in this policy shall utilize the Complaint Procedure as set forth below.

Prompt Reporting

Discrimination, harassment or retaliation complaints are best resolved if addressed early. It may be difficult to substantiate the allegations made in a complaint brought after significant time has passed. The time lines set forth in this procedure are implemented in order to ensure that allegations are investigated and concluded in a timely fashion so that any ongoing conduct can be immediately halted and immediate discipline taken if warranted. Complaints under this procedure shall be made within 180 days of the time the alleged conduct took place unless good cause is shown for the delay.

Duty to Report

If an employee believes that he/she has been subjected to illegal discrimination, harassment or retaliation, it shall be the duty of that employee to report such conduct as provided herein. In addition, all employees of the college holding a designated supervisory position (as determined by the listing maintained in Human Resources for Supervisor Evaluation purposes) shall have a duty to report any conduct of which they become aware. All other employees with direct knowledge of such conduct are encouraged to report knowledge of any illegal conduct involving discrimination, harassment or retaliation. The procedure for reporting is described below.

Reporting Procedure

An employee who feels that he or she has been subjected to illegal discrimination, harassment or retaliation should feel free to inform the respondent, either through verbal or written communication, stating that the behavior is unwelcome and should cease. If the employee does not feel comfortable in addressing this issue directly with the respondent or, if discussions do not produce a result acceptable to the employee, then the employee should make a complaint as provided by this procedure.

Except as required in Duty to Report above, a witness who directly observes illegal discrimination, harassment or retaliation may address it directly with the respondent through verbal or written communication stating that the behavior is inappropriate and should cease. If the witness does not feel comfortable in addressing this issue directly with the respondent, he/she may file a complaint as provided by this procedure. If the witness files the original complaint under this procedure, this person shall not be considered the complainant for purposes of this procedure.

An employee, supervisor or witness may make the report under this procedure to the Director of Human Resources. Alternatively, an employee, supervisor or witness may make the report under this procedure to the Office of Human Resources, to any Dean or Vice President, to the Federal Compliance Administrator or to any Department Director. A listing of the persons designated to receive the reports will be maintained in the Office of Human Resources.

The initial complaint can be either written or verbal, directed to the Director of Human Resources who may be reached at (620) 227-9201, 2501 N. 14th Avenue, Dodge City, Kansas 67801, dwetmore@dc3.edu, or compliance@dc3.edu. If a written complaint is submitted to the Office of Human Resources, it must include a specific description of the conduct complained of, identify the party or parties involved, and specify the date(s) and circumstances under which the alleged offensive or inappropriate conduct occurred. The complaint must also include an explanation of why the employee believes the alleged actions constitute discrimination, harassment or retaliation. The written complaint shall be dated and signed to acknowledge completeness and accuracy. If the complaint is submitted via email, it shall be in accordance with the rules established for such reporting.

Any supervisor receiving an anonymous complaint, either verbally or in writing, shall immediately send notice of the complaint to the Director of Human Resources.

If the complaint is against the College President or anyone reporting directly to the President, the reporting party should make the report under this procedure directly to the Chair of the Board of Trustees or the College Attorney. If the complaint is against any member of the Board of Trustees, the reporting party should make the report directly to either the College President, College Attorney or any other member of the Board who is not the subject of the complaint.

For purposes of this procedure, it is assumed that a report recipient is not a respondent. In the event a person designated by this procedure to receive a report is a respondent in the complaint, the report shall be directed to another appropriate official.

Once a report is received by the Director of Human Resources, it shall be processed in accordance with the rules for such reporting.

Deadlines

Due dates under this procedure shall be calculated based upon calendar days. If the due date specified falls on a weekend or holiday, the next business day will be the due date for the action. Either party may request a reasonable extension of time for any of the deadlines set forth in this procedure, including the time for making an initial complaint. While the intent of this procedure is to provide for the prompt reporting and investigation of claims of unlawful conduct, these deadlines are not meant to penalize. Therefore, failure to comply with the deadlines set forth herein will not invalidate a complaint, investigation or discipline. During the pendency of a complaint, the College may delay or suspend other employment actions, including offering contracts, until a final determination of the complaint has been made.

Retaliation

The College's commitment to eradication of any sort of illegal discriminatory or harassing conduct includes prohibiting actions taken in retaliation for complaining of violations of College policy. Retaliation includes taking any action which may have impact on the terms or conditions of employment including, but not limited to, increasing discipline or assignment, demotion, changes in pay or hours, material changes in job duties or functioning, if such conduct is taken because of the individual's filing of a complaint under this procedure, whether or not such complaint is determined to be valid. Employees are assured that retaliation due to filing a complaint under this procedure is strictly prohibited by law and by College policy and shall lead to discipline up to and including termination. Any person believing that retaliation has taken or is taking place should immediately report the matter as provided herein.

It shall be considered a violation of College policy for any individual to knowingly file a false or malicious complaint of discrimination, harassment or retaliation. If the College believes that such a false or malicious complaint has been filed, the matter will be investigated under the Formal Procedure review process of this procedure.

Complaint Resolution Procedure

Dodge City Community College has established both formal and informal procedures to resolve prohibited discrimination, harassment or retaliation complaints. Usually, complaints are most effectively addressed at the earliest possible stage. An employee who feels that he or she has been subjected to illegal discrimination, harassment or retaliation should feel free to inform the respondent, either through verbal or written communication, that the behavior is unwelcome and should cease. If the employee does not feel comfortable in addressing this issue directly with the respondent or, if discussions do not produce a result acceptable to the employee, then the employee shall file a complaint.

After the complainant has filed a complaint in compliance with the Reporting Procedure section of this policy, the written complaint will be submitted to the Director of Human Resources or the College Attorney, whichever is appropriate. A designated officer will meet with the employee to review the options for resolving this complaint. At this initial meeting, the complainant can request that either the Informal Procedure or Formal Procedure be followed. Based on this interview, or at any other time while the Informal Procedure is being pursued, the officer or complainant may elect to move the complaint to the Formal Procedure if circumstances are determined to merit a more complete investigation.

Under either the Informal Procedure or Formal Procedure review process, all involved parties have a duty to cooperate with the review or investigation, and they are not to knowingly impede, obstruct or delay the progress of the review. In particular, both the complainant and the respondent have the responsibility to provide all relevant information and facts to the matter under review.

Informal Procedure

If the Informal Procedure is elected, the officer will contact the appropriate administrator who supervises the respondent. The officer and designated administrator will meet with the complainant to review the complaint; they will discuss the allegation(s) with the respondent, and identify solutions to the complaint. If both parties to the complaint agree to a solution(s), this solution(s) shall be written, signed and dated by both parties to acknowledge that they agree with the solution and agree to maintain the confidentiality of the matter to the extent possible. The Informal Procedure review shall be concluded within a period of thirty (30) calendar days of receipt of the complaint. If a written resolution is reached during the Informal Procedure review, the complaint review process ends at this point.

Within sixty (60) days and again within six (6) months following completion of an Informal Procedure review, the administrator shall make contact with the complainant and the respondent to determine the status of the resolution. The administrator will report the results of these follow-up inquiries to Human Resources in writing.

During the Informal Procedure review process, all parties involved in processing the complaint, including but not limited to the Director of Human Resources and administrator shall each serve as a neutral procedural facilitator in the process and shall not act in an advocate role for the complainant or the respondent. The role of the reviewing officers will be to communicate the issues and identify potential solutions. The College Attorney may be consulted by the reviewers as appropriate. In the event a person designated by this procedure to receive or review a report is the respondent or otherwise involved in the matter, he/she shall be recused from this process and another appropriate official shall be appointed to fulfill that person's role.

If the complainant does not agree with a solution reached during the Informal Procedure, the complainant shall, within ten (10) calendar days of the conclusion of the Informal Procedure review, request in writing that the complaint be investigated through the Formal Procedure.

Formal Procedure

Under the Formal Procedure, the Director of Human Resources should proceed under the following guidelines:

Upon receipt of a complaint the Director of Human Resources, or a designee, shall review the allegations provided in the complaint and may consult with the College Attorney to determine the appropriate action required. If it is determined the complaint has sufficient probable cause to be investigated under the College's Discrimination, Harassment or Retaliation Complaint Procedure, the Director of Human Resources shall appoint an investigator to investigate the complaint. The appointed investigator may be a College employee or a third party retained by the College to conduct the assigned investigation. Where appropriate, two parties may be appointed to conduct such investigation.

The investigator shall promptly initiate an investigation of the complaint by discussing the complaint with the complainant and by interviewing any witnesses with relevant information, including but not limited to parties participating in or observing the conduct. The respondent shall be given the opportunity to respond in writing to the allegations within seven (7) days of notification of the complaint. All parties in the investigation shall be advised that information surrounding the complaint is to be kept confidential. Witnesses and the respondent shall be advised that retaliation against a complainant is strictly prohibited and may lead to discipline up to and including termination. Additionally, the respondent shall refrain from contacting potential witnesses until the investigation is complete.

The investigator shall summarize the findings in a report to the Director of Human Resources and to the supervisor of the respondent employee within ninety (90) days from receipt of the complaint or from the closure of the Informal Procedure review, whichever is later. When it is not reasonably possible to complete the investigation within that time, the investigation period may be extended by up to an additional sixty (60) days upon approval of the Director of Human Resources. If the extension is granted, the parties to the complaint will be so notified.

The Director of Human Resources shall review the investigators report and shall, if warranted, make a written recommendation to the college President regarding any corrective action, discipline or other employment action to be taken. The President makes the final decision regarding any action to be taken. Not every complaint will necessarily warrant corrective action or discipline. However, if the investigation reveals that discrimination, harassment or retaliation has occurred, the respondent will be subject to discipline up to and including termination.

During the Formal Procedure review process, the investigator and all other parties involved in processing the complaint shall serve in a neutral role in the process and shall not act in an advocate role for the complainant or the respondent. The role of the investigator will be to thoroughly investigate the issues as stated in the written complaint and to determine findings based on this review. The College Attorney may be consulted by the investigator as appropriate. In the event a person designated by this procedure to receive or review a report is the respondent or otherwise involved in the matter, he/she shall be recused from this process and another appropriate official shall be appointed to fulfill that person's role.

Within ten (10) days of receipt of the investigators report, the Director of Human Resources shall notify the complainant and the respondent of the outcome of the investigation and provide them with a summary of the investigation report. The complainant and the respondent shall also be reminded that retaliation taken because of the filing of a complaint is prohibited and that any such retaliation should be reported immediately.

Should the complainant not be satisfied with the conclusions of the investigation then, within ten (10) days of the date of the notice of determination, he/she may request review of the determination. If the complaint was filed against an employee other than the President, a direct report to the President, or a Board member, the request for review shall be submitted to the President. Upon receipt of the request for review, the President shall designate an employee of the College who has received policy enforcement training to review the investigator's report and determine what, if any, appropriate action is required as a result of the findings of the investigation. The reviewer may review the complaint, interview the complainant and the respondent, if necessary, and complete such other interviews as may be necessary to make a determination. The reviewer shall complete the review within fourteen (14) days. If additional time is needed to complete this review, the reviewing officer shall notify the complainant and the respondent that the review will be delayed, and indicate the reasons for the delay. The reviewer of the investigator's report shall provide a report to the President with his/her findings. The President shall consider this report and shall inform the complainant of his/her findings and conclusions. The decision of the President will be final.

If the complaint was filed against the President, someone who reports directly to the President or a Board member, the request for review shall be submitted to the College Attorney instead of the President. Upon receipt of the request for review, the College Attorney shall appoint an external third party who shall serve as an investigator to conduct a review pursuant to the Formal Procedure set forth herein. At the conclusion of this review, the College Attorney shall provide the Board of Trustees a report and an accompanying recommendation from the reviewer for the Board's consideration. Following completion of the review of this report, the Board of Trustees shall take any necessary and appropriate action. The action of the Board of Trustees will be final.

Disciplinary actions resulting from this complaint procedure may be appealed by the employee in accordance with the Dodge City Community College Personnel Policies.

Confidentiality

Employees seeking general information or guidance about sexual harassment may be concerned about whether the information they share will be confidential. While the College desires to create an environment in which individuals can discuss concerns and make complaints, legal obligations may require the College to take action once it is informed that illegal discrimination, harassment or retaliation may be occurring. Therefore, although the confidentiality of the information received and the privacy of the individuals involved cannot be guaranteed, they will be protected to as great an extent as possible while still allowing for appropriate and necessary investigation of the matter to occur. The expressed wishes of the complainant regarding confidentiality will be considered in the context of the College's obligation to act upon the charge and the right of the respondent to be informed concerning the charge.

Policy Enforcement Training

Dodge City Community College shall train all staff who are selected as an investigator in the Formal Procedure review process. These staff, and all other administrators identified in the Reporting Procedures section as officials authorized to receive a complaint, shall be provided appropriate training. The College shall determine the appropriate training required of these College employees and shall provide for periodic, required training and updates. An investigator selected from outside the College shall have demonstrated expertise in conducting such investigations.

All other supervisors, as designated in the Duty to Report section of this procedure, shall receive periodic training through the Office of Human Resources or the Office of Federal Compliance.

DATE OF ADOPTION: February 24, 1993

REVIEW DATE(S): October 22, 2013