

DE002: Pennsylvania Western University Non-Discrimination Policy and Procedures

Recommended for Approval by: Terrence Mitchell, VP for Diversity, Equity, and Inclusion

Approved by: Dale-Elizabeth Pehrsson, President

Effective Date: July 1, 2022

Pennsylvania Western University is committed to creating an environment free of unlawful discrimination for all its employees, students, contractors, vendors and visitors. Accordingly, discrimination based on an individual's gender, gender identity, race or color, ethnicity, national origin or ancestry, age, mental or physical disability, religion or creed, genetic information, affectional or sexual orientation, veteran status or any protected class is prohibited. Pennsylvania Western University is committed to the principles of free expression and academic freedom. As such, "discrimination" as defined in this policy is neither legally protected expression nor the proper exercise of academic freedom.

Discrimination as a result of belonging to a protected class may constitute a violation of Title VII of the U.S. Civil Rights Act of 1964, a violation of Title IX of the Education Amendments of 1972, a violation of the Pennsylvania Human Relations Act, other applicable federal and state laws/regulations, and/or University policy.

All employees, students, contractors and vendors are to comply with federal laws, state laws, regulations, and policies related to nondiscrimination. The coverage of this policy extends to visitors on Clarion University campuses.

Discrimination will not be tolerated. The University will conduct adequate, reliable and impartial investigations into any allegations of discrimination and, if it is determined that discrimination has occurred, the University will take steps to prevent the recurrence and correct discriminatory effects on the complainant and others, if appropriate, as well as take appropriate disciplinary action. An employee found to have engaged in misconduct constituting discrimination will be disciplined. Disciplinary actions could include: verbal warning, written reprimand, a requirement to attend counseling or training, suspension, or dismissal. A student found to have engaged in misconduct constituting discrimination will be disciplined, which may include dismissal from the University. Further, complaints of discrimination against an affiliated vendor or contractor may be reported to the Office of Social Equity.

It is the policy of the University that individuals will not be reprimanded or retaliated against for initiating an inquiry or complaint under these procedures. It is also the University's policy to recognize and respect the rights of any individual against whom a complaint has been filed.

Complainant: The person who is alleging the occurrence of discrimination.

Respondent: The person whose actions are alleged to have violated the non-discrimination policy.

A. DEFINITION OF DISCRIMINATION

An adverse employment or education related action or decision that is based on or motivated by an individual's gender, gender identity, race or color, ethnicity, national origin or ancestry, age, mental or physical disability, religion or creed, genetic information, affectional or sexual orientation, veteran status or any protected class is prohibited.

B. DEFINITION OF HOSTILE WORK ENVIRONMENT

Unwelcome conduct, on the basis of protected class, that a reasonable person would determine is sufficiently severe, pervasive, and objectively offensive that it unreasonably interferes with, limits, or deprives an individual from participating in or benefiting from any educational, employment, social or residential program in offered connection with the University.

C. CONFIDENTIALITY

In the interest of maintaining confidentiality, only parties to the complaint (i.e. complainant, respondent, witnesses, etc.) will participate in the investigation. Details of the complaint, as well as the names of the individuals connected to the investigation, will be disclosed only if necessary to protect the rights of any party involved or as otherwise required by law or collective bargaining agreement. However, complete confidentiality cannot be guaranteed under all circumstances.

Complaints reported anonymously may not result in an investigation but will serve to improve the University's knowledge of the extent to which there is a need to provide additional education relative to non-discriminatory conduct.

D. RESPONSIBILITIES

Each dean, department chairperson, and/or administrative supervisor is responsible within his/her respective area for the implementation, dissemination, and explanation of this policy. Assistance in accomplishing these tasks may be obtained by contacting the Office of Social Equity. It is the obligation of each student, faculty member, and staff member to adhere to this policy. Employees represented by collective bargaining units may, however, refer to the grievance procedures of their related bargaining units.

This policy applies to all employees and applicants for employment, students, and individuals who have a contractual relationship with Clarion University, including, but not limited to, vendors and contractors.

A current copy of this policy will be posted on the Office of Social Equity webpage. Hard copies of this policy may be obtained from the Office of Social Equity.

E. FALSE COMPLAINTS

Any person who knowingly files a false complaint of discrimination may be subject to disciplinary action, including dismissal from the University.

F. THE UNIVERSITY PROCEDURE

STEP 1: All charges of discrimination should be referred to the Office of Social Equity.

In order to ensure the effective handling of all incidents of discrimination, this policy requires that all reports of discrimination be directed to the same office on campus, namely the Office of Social Equity. At this first stage of the procedure, the individual or individuals who alert(s) the Office of Social Equity of a possible discrimination incident might not be the actual aggrieved party. A potentially aggrieved party may bring a complaint of discrimination to a supervisor, department chair or dean, who, in turn, shall refer the complainant to the Office of Social Equity.

Complaints should be submitted to:

Amy E. Salsgiver
Executive Director of Social Equity and Title IX
423 Becht Hall Clarion Campus
asalsgiver@pennwest.edu

Andrew Matt
Associate Director of Social Equity and Title IX
213 Reeder Hall Edinboro Campus
amatt@pennwest.edu

In the event there are two or more complainants and/or two or more persons (respondents) charged with discrimination in the same set of circumstances, the Office of Social Equity will decide whether the complaint will be handled jointly or separately. For purposes of this document, the phrases “the complainant” and/or “the respondent” may be plural.

Both the complainant and the respondent may be accompanied by an advisor, who is a member of the campus community, or a parent or guardian of a student, when meeting with the Office of Social Equity staff. If either party is covered under a collective bargaining agreement with the University, the Office of Social Equity will inform that party of his/her right to union representation. Nothing under these procedures is intended to abrogate the right of an individual to consult with his or her attorney.

The role of the Office of Social Equity in this procedure is to serve as a fact finder. The Office of Social Equity must act in such a manner as to ensure that all parties to a discrimination complaint are protected by appropriate due process and confidentiality.

Complaints alleging discrimination against the Office of Social Equity and/or the President shall be filed with the Office of the Chancellor, Pennsylvania State System of Higher Education (PASSHE) Dixon Center, Harrisburg, PA 17110, 717-720-4000.

STEP 2: The complainant meets with a representative from the Office of Social Equity.

The purpose of this meeting is to discuss the complaint and to gather information. At this initial meeting, the Office of Social Equity clarifies for the complainant whether or not the allegations may constitute discrimination. The Office of Social Equity then reviews the appropriate complaint procedure for the benefit of the complainant.

STEP 3: The complainant will receive additional clarification regarding University procedures regarding the alleged discrimination and general information regarding counseling.

The Office of Social Equity will provide general guidance for the complainant in order to:

- (a) Clarify the nature of the alleged discrimination.
- (b) Review the University’s complaint procedure.
- (c) Review the complainant’s responsibilities of filing a written or oral complaint.
- (d) Give guidelines for what a written complaint should contain, in the event the complainant chooses to file his/her complaint in writing.
- (e) Apprise the complainant of counseling services offered through Clarion University.

Counseling is made available to any student or employee who believes that he/she has been subjected to any form of discrimination. Students may avail themselves of counseling services through the University’s Health and Wellness Center. Counseling services are made available to employees through the State Employees Assistance Program (SEAP). To access SEAP please refer to Human Resources or visit: www.liveandworkwell.com.

STEP 4: The complainant files a complaint.

A complainant may file a complaint either orally or in writing.

In the event that a complainant does not wish to file a signed complaint him or herself, the Office of Social Equity will prepare a written statement with the following information: the names of the complainant and the respondent, a short description of the alleged violation as stated by the complainant, and the date(s) of the alleged discrimination. Whether the complainant submits a written complaint or the Office of Social Equity prepares a written statement, the allegations will be investigated. A copy of the Complaint Form is available in Appendix A or a complaint can be filed online at <http://www.clarion.edu/complaint>.

STEP 5: The Office of Social Equity must decide on an appropriate course of action regarding the complaint.

There are two possible courses of action following the filing of a complaint:

- a) Based on the complainant's written or oral account of alleged discrimination, the Office of Social Equity determines there is insufficient reason to proceed with a complaint and advises the complainant regarding this decision. In this case, the investigation would stop at this point and the complainant would be notified of the decision of the Office of Social Equity.
- b) Based on the complainant's written or oral account of alleged discrimination and a finding of sufficient reason to proceed, the Office of Social Equity will promptly initiate an impartial fact-finding investigation of the reported discrimination. Absent unusual circumstances, the Office of Social Equity will attempt to complete the investigation within 30 to 60 business days from receipt of the complaint.

STEP 6: The respondent is notified of the complaint.

Absent unusual circumstances, within 14 calendar days of the determination made under Step 5, and if an investigation is warranted, the Office of Social Equity will notify the respondent that a complaint of discrimination has been filed against him/her. Depending on the circumstances, the respondent will be notified in writing. The notification, for reasons of confidentiality, will be emailed to the respondent's University affiliated email. In certain circumstances, communications and/or notifications may be sent by certified mail or the document can be obtained by the respondent in person directly from the Office of Social Equity.

STEP 7: The Office of Social Equity meets with the respondent.

Absent unusual circumstances, within 14 calendar days of having received notification of the complaint, the respondent must meet with the Office of Social Equity to discuss the complaint. The respondent will be given the opportunity to respond to the allegations and provide any and all defenses, as well as the names of any witnesses and/or documentation in his/her defense.

The University will take every precaution to protect the complainant and any witnesses from retaliatory action by the respondent. In fact, the respondent will be informed he/she is not to retaliate in any way against the complainant or any other person connected to the complaint as that action may result in a separate disciplinary action. Further, the respondent will be informed he/she is not to communicate directly with the complainant regarding the claim of discrimination as this may be perceived as an attempt to discourage the complainant from pursuing the complaint. The Office of Social Equity will attempt to resolve the complaint informally. If the complaint is not resolved informally, a formal investigative process will follow.

STEP 8: The Office of Social Equity seeks to resolve the complaint and/or to mediate a solution.

The Office of Social Equity may choose to meet with the complainant, absent unusual circumstances, within 7 days of having met with the respondent. Upon meeting with the respondent and the complainant, the Office of Social Equity will seek to resolve the complaint. One of two outcomes is possible:

- (a) The Office of Social Equity is satisfied the respondent will make appropriate changes in his/her behavior. The Office of Social Equity meets with the respondent to counsel the respondent about resolution of the complaint. A record of the resolution would be signed by the respondent and will be kept in the Office of Social Equity for three years. The Office of Social Equity will inform the complainant the matter has been resolved, without providing detailed information about the resolution.

- (b) A mediated solution could be achieved which is satisfactory to the complainant and the respondent.
A record of the resolution will be kept in the Office of Social Equity for three years.

STEP 9: Action by the University President and Final Disposition of the Complaint.

If the complaint cannot be resolved as set forth in Step 8, the Office of Social Equity will continue the investigation to its conclusion. A draft of the factual findings will be submitted to the complainant and respondent. They will have three business days to respond with edits for any perceived factual errors. The Office of Social Equity can either accept or deny those edits. A Final Report will simultaneously be delivered, through email, to the complainant, respondent and the President. The hard copy of the Final Report will be delivered via certified mail or may be obtained, in person, from the Office of Social Equity.

The President will decide what action will be taken, including, but not limited to, the dismissal of the complaint or the imposition of discipline. If the complainant and respondent wish to meet with the President prior to her decision, he or she should so inform the President within five business days from the date that he or she was informed of the Final Report. The President may convene a meeting with the requesting party and the Office of Social Equity and the Office of Human Resources. The President will notify the respondent regarding the final outcome of the complaint and the basis for the decision. The decision of the President shall be final. The complainant will receive a letter from the Office of the President regarding the outcome of the complaint and the basis of the decision, without providing specific details regarding the resolution.

All records of the formal process, including the decision of the President, will be kept in the Office of Social Equity for three years. In the event of an adverse ruling against the respondent, a copy of the decision of the President shall be placed in the respondent's personnel file.

The complainant or no other person shall be subjected to discharge, suspension, discipline, harassment, or any form of retaliation for having filed, participated in, or helped others use this complaint procedure.

G. TRAINING

The University will provide training on an annual basis. All faculty and staff are required to participate in this training within 60 days of commencing employment and at least every year thereafter. The University will provide training to all new students, orientation leaders, and residence hall assistants. Access the online training at <http://www.clarion.edu/equitypolicies>.

H. OTHER PROCEDURES FOR ADDRESSING COMPLAINTS OF DISCRIMINATION

Filing a complaint in accordance with the procedures set forth above in no way abrogates the complainant's right to file complaints of discrimination with the appropriate state and federal enforcement agencies or with the courts. These specific procedures are intended to resolve complaints within the University. The complainant may also file a formal complaint with the Pennsylvania Human Relations Commission, the United States Equal Employment Opportunity Commission, or the United States Department of Education, Office for Civil Rights. Usually, 180 calendar days is the time frame for filing a complaint with these agencies.

I. REVISIONS

In order to be responsive to changes in state system policies and case law, the procedures may be revised periodically.

Approved by Pennsylvania Western University President Dale Elizabeth Pehrsson at the President's Executive Council on May 25, 2022

Appendix A
COMPLAINT FORM

Complainant Name (Last Name, First Name, MI)

Date:

Address

City

State

Zip

Telephone Number

Check One: Student Employee

Specifics of complaint (describe below, including any dates of alleged discrimination.)

Attach additional pages as necessary.

If you wish, please describe any corrective action you would like to see taken with regards to possible discriminatory conduct. Attach additional pages as necessary.

Signature of Complainant