

Chapter 132N-300 WAC

GRIEVANCE PROCEDURE—DISCRIMINATION

WAC

132N-300-001 Statement of policy.
132N-300-010 Grievance procedure.

WAC 132N-300-001 Statement of policy. (1) The college affirms a commitment to freedom from discrimination for all members of the college community. The responsibility for, and the protection of, this commitment extends to students, faculty, administration, staff, contractors, and those who develop or participate in college programs. It encompasses every aspect of employment and every student and community activity. The college expressly prohibits discrimination against any person on the basis of race, sex, creed, religion, color, national origin, age, sexual orientation, marital status, the presence of any physical, sensory or mental disability, or status as a disabled or Vietnam-era veteran. Harassment is a form of discrimination.

(2) Definitions.

(a) Sexual harassment is a form of sex discrimination which involves the inappropriate introduction into the work or learning situation of sexual activities or comments that demean or otherwise diminish one's self worth on the basis of gender. Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature constitute sexual harassment under any of the following conditions:

(i) When submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic standing.

(ii) When submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting such individual.

(iii) When such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, offensive working or educational environment.

Sexual harassment often involves relationships of unequal power and contains elements of coercion—as when compliance with requests for sexual favors becomes a criterion for granting work, study, or grading benefits. However, sexual harassment may also involve relationships among equals, e.g., student to student, as when repeated sexual advances or demeaning verbal behavior have a harmful effect on a person's ability to study or work.

Gender discrimination is the process of making a distinction in favor of, or against, a person or persons on the basis of sex rather than on individual merit. If gender is taken into account when making a decision regarding an employee, except when it is a *bona fide* occupational qualification or is otherwise authorized by law, or if an employee is sexually harassed, that person has been subjected to gender discrimination.

(b) Racial harassment is defined as physical or verbal conduct that is maliciously intended to harass, intimidate, or

humiliate a person or persons on account of race, color, or national origin and that causes severe emotional distress, physical injury or damage or destruction to the property of another, or threatens and places a specific person or group of persons in reasonable fear of harm.

(c) Disabilities. People with disabilities are persons with a physical, mental, or sensory impairment which substantially limits one or more major life activities. An individual is disabled if he or she meets at least any one of the following tests:

(i) He or she is substantially impaired with respect to a major life activity; or

(ii) He or she has a record of such an impairment; or

(iii) He or she is regarded as having such an impairment.

(d) Disabled veteran. A person entitled to disability compensation under laws administered by the U.S. Department of Veterans Affairs, or a person whose discharge or release from active duty was for a disability incurred or aggravated in the line of duty.

(e) Vietnam-era veteran. A person who served on active duty for a period of more than one hundred eighty days, any part of which occurred between August 5, 1964, and May 7, 1975, and was discharged or released from duty with other than a dishonorable discharge.

[Statutory Authority: RCW 28B.50.140. 98-19-066, § 132N-300-001, filed 9/18/98, effective 10/19/98.]

WAC 132N-300-010 Grievance procedure. (1) Any person who believes she or he has been discriminated against or harassed by Clark College or its employee(s) or agent(s) on the basis of race, sex, creed, religion, color, national origin, age, sexual orientation, marital status, the presence of any physical, sensory or mental disability, or status as a disabled or Vietnam-era veteran, may lodge a formal grievance. The college president delegates investigation of grievances on the basis of disability or disabled or Vietnam-era veteran status to the ADA Compliance Officer (ADACO). The college president delegates investigation of all other discrimination/harassment grievances to the college's affirmative action officer (AAO).

(a) Complaints should be filed within one hundred eighty days from the most recent incident. Where extraordinary circumstances are shown, the one hundred eighty-day limit may be waived by the ADACO or AAO.

(b) If the individualized education program (IEP) of a student provides for enrollment at Clark College or contracted special education or related services to be provided by the college, the school district which developed the IEP shall remain responsible for insuring that the requirements of chapter 392-172 WAC and the Individuals with Disabilities Education Act, 20 U.S.C. secs. 1400 *et seq.*, including review and revisions to the IEP, are met.

(2)(a) Step 1: **Informal meeting.** In an attempt to informally resolve the concern, the complainant may request a meeting with the individual believed to have committed the discriminatory act (the respondent) or with the appropriate supervisor or president's designee. The time period in which attempts to informally resolve the concern are made shall not exceed thirty working days from the time the complaint is lodged.

(b) Step 2: **Formal grievance procedure.** The complainant may initiate a formal grievance.

(i) A formal grievance must be filed in writing and must set forth the specific grievance(s) raised by the complainant, including the dates, times, places, and circumstances surrounding his or her complaint. A form for this purpose is available from the ADACO or AAO; however, any written document is acceptable. Formal complaints may not be filed by e-mail.

(ii) Upon receipt of the grievance, the ADACO or AAO will conduct an investigation which includes, but is not limited to, interview(s) with the complainant, the respondent, and any additional persons necessary to determine the merit(s) of the complaint. The investigation should be completed within thirty working days.

(iii) Upon completion of the investigation, the ADACO or AAO will present a written report, including findings and conclusions to the complainant and the respondent. The report may include a recommendation by the ADACO or AAO for appropriate disciplinary or corrective action, or the report may be sent to the designated dean or administrator to determine appropriate disciplinary or corrective action.

(iv) If the complaint is found to be false and malicious, the ADACO or AAO will notify the designated dean or administrator for possible disciplinary action against the complainant.

(c) Step 3: **Presidential appeal.** If the complaint is not resolved at Step 2 the complainant may appeal to the college president.

(i) The appeal must be made in writing within twenty-one days after the report is issued.

(ii) Within twenty days after receiving the appeal, the college president or the president's designee will conduct the presidential review and report the results in writing to both the complainant and the respondent. The college president may affirm or modify the report, remand the case for further investigation, or dismiss the appeal.

(iii) The written results of the presidential review will be considered final. No further intra-institutional appeal exists.

(3) If desired, inquiries or appeals beyond the institutional level may be directed to:

(a) Equal employment opportunity commission.

(b) Washington state human rights commission.

(c) Regional director, office of civil rights, department of education.

[Statutory Authority: RCW 28B.50.140. 98-19-066, § 132N-300-010, filed 9/18/98, effective 10/19/98.]