



PROCEDURE FOR DISCRIMINATION/ HARASSMENT COMPLAINTS FROM APPLICANTS AND INDEPENDENT CONTRACTORS

I. PURPOSE

The California State University (CSU) is committed to maintaining a work environment where every employee, applicant, and independent contractor is treated with dignity and respect. CSU Executive Order 927 prohibits unlawful harassment of an applicant or a person providing services pursuant to a contract because of race, color, religion, national origin, ancestry, age, sex, sexual orientation, marital status, veteran status, physical disability, and medical condition.

In compliance with CSU Executive Order 928, this procedure is designed to ensure equitable and prompt response to allegations of discrimination, harassment, or retaliation from an applicant, and allegations of harassment or retaliation from an independent contractor.

II. APPLICATION

This procedure applies to applicants for employment at California State University, San Bernardino and to independent contractors, as defined in section III.

III. DEFINITIONS

- A. Applicant – refers to an individual who has completed the application process for a specific available position (either a non-faculty or faculty position) at California State University, San Bernardino.
- B. Independent Contractor – refers to a “person providing services pursuant to a contract” as defined by the California Fair Employment and Housing Act. A person “providing services pursuant to a contract” is a person who meets all of the following criteria:
 - 1. The person has the right to control the performance of the contract for services and discretion as to the manner of performance.
 - 2. The person is customarily engaged in an independently established business.
 - 3. The person has control over the time and place the work is performed, supplies the tools and instruments used in the work, and performs work that requires a particular skill not ordinarily used in the course of the employer’s work.
- C. Complainant – refers to an applicant or independent contractor who has filed a formal complaint under this procedure.
- D. Investigator – refers to the MPP employee or external consultant assigned to investigate a complaint of discrimination or harassment.

IV. CAMPUS ADMINISTRATORS RESPONSIBLE FOR RESPONDING TO ALLEGATIONS OF DISCRIMINATION/HARASSMENT

A. Applicants and independent contractors may address concerns/file complaints of discrimination or harassment with the following campus administrators:

1. APPLICANTS

- a. Applicants for non-faculty employment who believe they have experienced discrimination or harassment may file a complaint with the Associate Director of Human Resources in the Office of Human Resources, located in Sierra Hall room 110.
- b. Applicants for faculty employment may file a complaint with the Associate Vice President for Academic Personnel, located in Administration Building room 101.
- c. Applicants for Unit 11 student employment positions may file a complaint with the Academic Labor Relations Manager, located in Administration Building room 101.

2. INDEPENDENT CONTRACTORS

- a. Independent contractors should address complaints of harassment to the Director of Procurement and Support Services in Sierra Hall room 125-A.

V. INFORMAL LEVEL

The individual with a potential complaint may seek the advice and counsel of the designated campus administrator listed in section IV to determine the nature of any claim of discriminatory practices and/or harassment and to explore a resolution of the claim. Whenever possible, the designated campus administrator will attempt to resolve the claim at the informal level. A resolution at the Informal level will be documented.

VI. FORMAL LEVEL

The individual may choose to file a written complaint with the Assistant Vice President of Human Resources located in Sierra Hall room 110. The complaint should be filed no later than twenty (20) working days after the event giving rise to the claim or no later than twenty (20) working days after the claimant knew or reasonably should have known of the event giving rise to the claim.

Applicants and independent contractors also have the right to file a complaint of harassment directly with the California Department of Fair Employment and Housing (DFEH).

After reviewing the complaint, the Assistant Vice President of Human Resources will determine which management individual (MPP), as appropriate, or consultant will be assigned to conduct an investigation.

The person who conducts an investigation under this procedure may be one of the campus administrators identified in Section IV of the procedure, or another management individual (MPP) employee or external consultant, designated by the Assistant Vice President of Human Resources who is not within the administrative control or authority of the person alleged to have discriminated or harassed the complainant. Investigations will be conducted in a timely and impartial manner.

The complainant and individual assigned to investigate the complaint (investigator) should meet as soon as possible, but no later than fourteen (14) working days after receiving the complaint. The investigator will discuss the complaint with the complainant and record all appropriate information.

The investigation will include, at a minimum, interviews with the claimant/complainant and the person alleged to have discriminated or harassed (i.e., the respondent). The investigator will discuss the matter with any witnesses he/she deems relevant to the investigation.

The designated campus administrator will respond to the complainant no later than sixty (60) working days after the initial meeting with the complainant, unless an extension of the timeline has been obtained, to convey the outcome of the university's investigation.

VII. APPEAL

The complainant may file a written appeal with the Assistant Vice President of Human Resources within ten (10) working days after receipt of the decision from the designated campus administrator, if not satisfied with the outcome of the complaint process. The appeal will outline the basis upon which the complainant believes the appeal should be granted.

The Assistant Vice President of Human Resources will acknowledge receipt of the appeal within ten (10) working days. The Assistant Vice President of Human Resources will provide a written decision to the complainant within thirty (30) working days. This will be the final university decision.

The complainant will be reminded of his/her right to file a complaint with the California Department of Fair Employment and Housing (DFEH).

VIII. General Provisions

Time limits refer to working days, which are Monday through Friday, excluding all university holidays or closure of the CSU, San Bernardino campus. If the claimant/complainant, respondent, witnesses, campus investigator, or designated campus administrator is on an approved leave of three (3) days or more, the time limits will be extended by the length of time the individual is absent.

Time limits may also be extended by mutual agreement.