



C.G.A 46a-68 - Investigation of Discrimination Complaints: (4) (A) Each person designated by a state agency, department, board or commission as an equal employment opportunity officer shall (i) be responsible for mitigating any discriminatory conduct within the agency, department, board or commission, (ii) investigate all complaints of discrimination made against the state agency, department, board or commission, except if any such complaint has been filed with the Commission on Human Rights and Opportunities or the Equal Employment Opportunity Commission, the state agency, department, board or commission may rely upon the process of the applicable commission, as applicable, in lieu of such investigation, and (iii) report all findings and recommendations upon the conclusion of an investigation to the commissioner or director of the state agency, department, board or commission for proper action.

## **Investigation Procedures**

(Updated 11/9/20)

### **Purpose**

The Connecticut State Colleges & Universities is committed to conducting its affairs in accordance with its core values as stated in its Code of Conduct and as required by federal, state and local laws and CSCU policy. The CSCU Labor Relations Center of Excellence in conjunction with the Diversity and Inclusion Center of Excellence strives to prevent, detect, and assist management to correct violations of law or policy, which may result from mistake, inadvertence, lack of information, or deliberate misconduct. In accordance with Connecticut General Statute (46a-68<sup>1</sup>) and the CT Affirmative Action Regulations for State Agencies, this protocol establishes an administrative process for dealing with allegations of misconduct derived from one or more employees so that the integrity of the business at CSCU may be preserved.

### **Procedures for Discrimination/Harassment Complaints/Related Claims**

#### *General Provisions*

The following procedures are designed to provide an internal process for the handling of complaints involving claims of discrimination, harassment, Title IX, or related claims<sup>2</sup>. Such claims may arise from violation of federal or state statutes or College policy or regulations or CSCU work rules. In addition, a complaint may be filed with state and federal civil rights enforcement agencies if it relates to discrimination or harassment, generally within 300 calendar

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<sup>1</sup> (i) be responsible for mitigating any discriminatory conduct within the agency, department, board or commission, (ii) investigate all complaints of discrimination. This is consistent with the Affirmative Action Regulations and is consistent with every AA plan section 46a-68-89 Discrimination Complaint Process filed within our system and state agencies.

<sup>2</sup> Related claims can include allegations of bullying, interference with the work of staff, known or suspected violations of laws, regulations, standards, rules, policies or procedures applicable to the CSCU including, but not limited to unethical conduct, or workplace violence.

days of the date of the alleged discriminatory event. Claims outside discrimination and harassment may have separate timelines to file.

#### *Process to File a Complaint*

Any complainant who believes that he or she is a victim of discrimination, harassment, or related claims in violation of College policies may initiate a complaint under the policies by bringing the matter to the attention of any one of the following: CSCU Director of Labor Relations, appropriate Dean, appropriate Vice President or Associate Vice President, or supervisor/manager. Those individuals will be responsible for reporting those matters to the appropriate COE as necessary. In addition, allegations of sex discrimination may be brought to the designated campus Title IX Coordinator or a member of the Diversity and Inclusion COE.

**The form to file a complaint may be found at the following link:**

**[LR Complaint Form Fillable 2020.pdf](#)**

#### *Investigation Timeline/Timelines to File with CHRO and/or EEOC*

Complainant(s) are encouraged to file as soon as possible following the alleged discriminatory act or act of concern<sup>3</sup>; however, state regulation requires that the Complainant should file no later than ninety (90) days following the complainant's first knowledge of the alleged discriminatory act. Note that CSCU reserves the right to investigate claims beyond the 90-day requirement if federal law, including Title IX, or State law may have been violated. The Complainant should understand, however, that the state and federal civil rights agencies, CHRO and EEOC, have a three hundred (300) days time limit for filing a claim of discrimination and that filing a complaint with CSCU policy does not affect those time limits.

#### *Process when a Complaint is Received*

Individuals filing complaints internally will be 1) informed of and provided a copy of CSCU policies on non-discrimination and/or sexual harassment and/or related claims 2) asked if they wish to pursue the complaint on an informal or formal basis, and 3) advised that they have the right not to be retaliated against for bringing the complaint and that the CSCU will not tolerate retaliation. Additionally, those who file sexual harassment or sexual discrimination complaints will be directed to Title IX coordinators who can provide supportive and other services and additional direction for processing the complaint. Individuals will be further advised that they have the legal right to file a complaint with the Connecticut Commission on Human Rights and Opportunities, the United States Equal Employment Opportunity Commission, the U. S. Department of Labor, Wage and Hour division, and any other agencies, state, federal, or local, that enforce laws concerning discrimination in employment. When appropriate, the CSCU Labor Relations COE may also recommend confidential counseling or other support services that provide victim assistance.

If the complaint is initially received by another College official, it shall be promptly forwarded to the CSCU Director of Labor Relations and/or the CSCU Director of Diversity and Inclusion. If the complaint is verbal, the person receiving the complaint shall make a written summary and send to the CSCU Director of Labor Relations and/or the CSCU Director of Diversity and Inclusion. Any supervisor who has witnessed or becomes aware of the alleged occurrence of

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<sup>3</sup> Act of concern defined as any act which supports the underlying complaint allegedly violating CSCU policies.

discrimination, harassment, or related claims, or who receives a complaint of discrimination or harassment, involving a person within their purview is required to report the matter to the CSCU Directors of Diversity and Inclusion and Labor Relations and to take prompt corrective action as appropriate. Failure of the supervisor to report the incident or take appropriate corrective action shall be a violation of this policy and shall constitute misconduct subject to disciplinary action.

The Directors, or designated investigators, will review the complaint and, at this stage or at a later stage after further investigation, determine the alleged acts may constitute a violation of the of the CSCU Discrimination and Sexual Harassment Prevention Policies or other related policies, an investigation will proceed as set forth in the Formal Process below, unless the matter is satisfactorily resolved through the Informal Process. If the Director determines the alleged acts may constitute a violation of Title IX, the investigation will proceed as set forth in the Title IX Process. If it is determined that these policies were not violated, the Director of Labor Relations may still recommend that informal resolution be pursued, particularly in the situation where the Director determines that the complaint involves unprofessional or other objectionable behavior, but not discrimination or harassment on the basis of a protected class category as defined in the Policy.

### **Informal Process**

In some circumstances, informal resolution of a complaint agreeable to both parties may be more satisfactory than proceeding directly to a formal complaint. Under this policy, there are two options for informal resolution:

- (1) An informal resolution by the appropriate manager/supervisor, e.g., Regional President, CEO, Vice President, Associate Vice President or, Dean with complainant and respondent's agreement.  
In this process, the manager/supervisor, e.g., Regional President, CEO, Vice President, Associate Vice President or, Dean or other designated College official, takes action that eliminates the causative factors precipitating the original complaint; stops the offending behavior; and/or resolves the complaint in a manner that is equitable and timely to all parties. Upon execution of the resolution, the manager/supervisor shall report the final disposition to the D&I and LR COE's, and the complaint will be considered resolved.
- (2) Mediation between the parties arranged by the CSCU Labor Relations and/or Diversity and Inclusion Centers of Excellence.

In appropriate cases, the complainant and respondent may agree to pursue mediation and the CSCU Labor Relations Center of Excellence will arrange for a mediator who is mutually acceptable to both parties. The mediator will consult with and advise both the complainant and the respondent about the mediation process. If the mediation results in a mutually acceptable agreement, copies of the agreement will be forwarded to the CSCU Directors of Labor Relations and Diversity and Inclusion for review and monitoring. If the mediation does not result in an agreement, the case will be returned to the Labor Relations and/or Diversity and Inclusion Centers of Excellence to proceed through the formal process.

## **Formal Process**

If the informal process is unsuccessful or if the Complainant wishes to proceed directly to the formal process, the complainant should file a written complaint. The written should follow the format in the Complaint Form.

The Labor Relations Center of Excellence will notify the respondent in writing that a complaint has been filed and provide him/her with a copy of the complaint with any attachments or a summary of the allegations pertaining to the respondent being notified, the discrimination, sexual harassment policy, or related policy. Respondents shall be given an opportunity to respond to the allegations orally or in writing.

Within fifteen (15) calendar days of filing of the formal complaint, the Director of the Labor Relations Center of Excellence may afford the parties an opportunity to mediate a resolution to the complaint. The College will designate an individual who has been trained to mediate such complaints.

If the complainant or the respondent decides not to participate in mediation or if the mediation is not successful, the Director, or their designee, will further investigate the complaint. The investigation may include, but not be limited to, interviewing witnesses deemed appropriate, obtaining written statements, propounding written questions, reviewing any documents or files deemed relevant, and interviewing the parties to the complaint.

The Labor Relations and/or the Diversity and Inclusion Centers of Excellence shall issue a written report of findings, including recommended action(s), to the campus CEO within ninety (90) days of receipt of the formal complaint. The complainant and respondent shall be notified in writing of the findings by the Labor Relations Center of Excellence. Within ten calendar days of receipt of the outcome notification, the parties can appeal the findings to Regional President.

If the Labor Relations Center of Excellence finds reasonable cause to believe that a violation policy has occurred, the complaint will be referred to the appropriate member of management for a decision on what, if any, further action is warranted, including whether to pursue formal disciplinary action up to and including termination. The process for disciplinary action will be governed by the applicable sections of the collective bargaining agreement, or the personnel policies if no collective bargaining agreement is in effect.

This procedure for formal investigation of complaints regarding violations of the policies governing discrimination, harassment, or related claims shall be conducted in accordance with applicable collective bargaining agreements of the CSCU.

### **Standard of Evidence**

There is no assumption of wrongdoing; rather the investigation shall be an impartial and objective fact-finding function in order to determine, based on the *preponderance of the evidence*, whether the allegations have been substantiated. If allegations are substantiated, the LR and/or D&I COE will recommend appropriate follow up measures to campus management.

### **Non-Retaliation**

Retaliation for making good faith reports is strictly prohibited. CSCU shall provide appropriate protection and support to those who may experience acts of retaliation related to the reporting of concerns, in accordance with CSCU's Non-Retaliation Policy.

### **Filing a False Complaint**

Any member of the College community who knowingly files a false complaint of discrimination, harassment, related claims or who knowingly provides false information to or intentionally misleads any College official who is investigating a complaint, is subject to disciplinary action.

### **Appeals**

Either party may request a review of the investigation findings by submitting a written request for review to the CSCU VP for HR on the fourteenth (14) calendar day from written receipt of investigatory findings. Written receipt is presumed to be five (5) calendar days after transmittal by U.S. mail and the same day if issued via email before 5:00 PM (EST). A request for an extension of time beyond fourteen days may be granted at the discretion of CSCU VP for HR.

The grounds for review are limited to: (1) violations of these complaint procedures, which would have had a material effect on the outcome; and/or (2) additional evidence that was not available during the investigation, which would have had a material effect on the outcome.

A party's request for review must identify at least one of the two grounds for review and provide sufficient detail to understand the basis for the request. Mere disagreement with the investigator findings is not sufficient grounds for review.