

## CHANCELLOR FOR COMMUNITY COLLEGES MEMO

CCCM# 2210 (May 1991)

SUBJECT: UH Community Colleges Procedures and Guidelines Relating to Complaints of Discrimination

A. References:

1. UH Executive Policy E1.202, University Statement of Nondiscrimination and Affirmative Action.
2. UH Board of Regents Bylaws and Policies, Section 1-5, Policy on Nondiscrimination and Affirmative Action, and Section 1-4, Rights and Responsibilities of the University of Hawaii Community.
3. Administrative Procedures Manual A9.920, Discrimination Complaint Procedures for Employees, Students, and Applicants for Employment or Admission.
4. Hawaii Revised Statutes (HRS), Chapter 378.

B. Community Colleges' Commitment:

It is the policy of the University of Hawaii Community College System to provide equal opportunity in higher education, both in its educational mission and as an employer. The Community Colleges is committed to complying with all state and federal laws which prohibit discrimination in its educational and employment programs, policies, procedures or practice and University and Board of Regents policies.

C. Purpose of Policy:

To implement Administrative Procedures Manual A9.920, Discrimination Complaint Procedures for Employees, Students, and Applicants for Employment or Admission, by establishing community college guidelines and procedures for the timely and effective resolution of discrimination complaints. Guidelines are to be incorporated into each college's procedures, as appropriate.

D. Applicability:

This policy covers all community college students, employees and applicants, including handicapped, for admission and employment. Sexual harassment complaints should be filed under separate procedures, CCCM #2200, UH Community Colleges Policy and Procedures Relating to Sexual Harassment.

E. Responsibilities:

1. Senior Vice President and Chancellor for Community Colleges (hereinafter Chancellor).
  - a. Assists Provosts, as requested, with the development of campus rules and regulations prohibiting unlawful discrimination based on race, color, national origin, sex, handicap, age, veteran status, marital status, religion, ancestry, and arrest and court record.
  - b. Serves as Hearings Officer to hear appeals of the Provosts' decisions.
  - c. Provides Provosts with technical assistance, as requested, on the resolution of discrimination complaints.
  - d. Requests assistance of the Department of the Attorney General, as appropriate.
  - e. Ensures applied sanctions or disciplinary actions are consistent with existing University policies and collective bargaining contracts.
  - f. Conducts systemwide in-service training on unlawful employment and educational discrimination.
  
2. Provost
  - a. Identifies the individual(s) on the campus (hereinafter designee) responsible for receiving discrimination complaints. Publicizes the designee's name, office phone number, and office location on, but not limited to, campus bulletin boards and in the campus bulletin at the beginning of each academic year.
  - b. Establishes campus rules and/or regulations prohibiting unlawful discrimination (See Attachment A).
  - c. Communicates campus rules and/or regulations to students, employees and applicants through the use of a variety of methods (e.g., bulletin boards, pamphlets, and in-service training).
  - d. Establishes procedures for the handling of discrimination complaints by students, employees and applicants. Takes appropriate action regarding complaints of discrimination (See Attachment A).
  - e. Informs Chancellor of discrimination complaints.
  - f. Follows through on discrimination complaints quickly and thoroughly.

F. Recisions:

None.

Joyce S. Tsunoda  
Chancellor for Community Colleges

Enclosures

## Complaint Procedure

Because of the private nature of most discrimination incidents and the emotional and moral complexities surrounding such matters, every effort will be made to resolve complaints in a confidential manner and as expeditiously as possible.

To safeguard individual privacy, dissemination of information relating to complaints of discrimination should be limited to those individuals necessary to the informal or formal proceedings. However, complete confidentiality cannot be maintained in the process of handling informal and formal complaints. Certain information may be disclosed to appropriate administrators, the respondent, and witnesses, among others, in order to conduct fact finding, institute remedial action, or informally resolve a complaint. Also, certain information may be disclosed if required by law, rule, regulation, or order of a court of competent jurisdiction.

### Step 1

1. Any community college student, employee or applicant, including handicapped, who believes that he or she has been a victim of unlawful discrimination may file a complaint with the campus designee as identified by the Provost's Office. The designee will immediately notify the Provost that a complaint has been filed.
2. The designee will counsel the complainant about other avenues for pursuing the complaint. Discrimination complaints may be filed concurrently with an external agency to meet state and federal agency deadlines without jeopardizing an individual's right to a University investigation.
  - a. Educational & EEO/AA Matters:  
  
Office of Civil Rights (OCR)  
U.S. Department of Education  
Old Federal Building  
50 United Nations Plaza, Room 239  
San Francisco, California 94102  
Phone: (415) 556-7035
  - b. Employment Matters:
    - 1) File a grievance under collective bargaining or UH grievance procedures (employees only).
    - 2) File a complaint under Administrative Procedures A9. 110, Employment-Related Grievance Procedure For Persons (Including Applicants For Positions) Not Covered By Collective Bargaining Agreement Grievance Procedures Or Other Applicable Procedures.

- 3) Equal Employment Opportunity Commission (EEOC) Director, Honolulu Local of EEOC 677 Ala Moana Boulevard, Suite 404 Honolulu, Hawaii 96813 Phone: 541-3120
  - 4) Office of Federal Contract Compliance & Program (OFCCP) Office Director-Hawaii Field Prince Kuhio Building, Room 7326 Honolulu, Hawaii 96850 Phone: 541-2933
  - 5) State Department of Labor and Industrial Relations Hawaii Civil Rights Commission 888 Mililani Street, 2nd Floor Honolulu, Hawaii 96813 Phone: 586-8636
  - 6) Federal Equal Employment Opportunity Commission San Francisco District Office 901 Market Street, Suite 390 San Francisco, CA 94103 Phone: (415) 744-6500
3. Complaints are to be filed with the designee within 180 days after the date on which the discrimination is alleged to have occurred. (Extensions of the deadline may be granted due to extenuating circumstances.) Complainants are advised to file a complaint as soon as possible, since filing deadlines with external agencies are as short as 90 days.
  4. If an informal resolution has not been attempted, the designee may seek to resolve the complaint on an informal level.
  5. Formal complaints must be in writing and provide sufficient information to permit fact-finding and investigation (see Attachments A and B). The designee will be available to assist the complainant in providing the necessary information.
  6. The designee will inform the respondent in writing and provide a summary or statement of the allegations. If the respondent is an employee in a collective bargaining unit, the respondent will be notified of union representation rights (See Attachment C).
  7. The designee will interview the parties involved, review any documentary evidence and interview witnesses deemed by the designee to have relevant and material information pertaining to the grievance.
  8. The formal investigation will be completed and findings submitted to the Provost by the designee within 45 calendar days of the date the complaint was filed. Should an extension of time be required for any reason, the complainant will be notified in writing.
  9. Upon receipt of the findings from the designee, the Provost will then take appropriate action in accordance with the applicable student conduct codes, collective bargaining

contracts, and University policies, procedures, rules and regulations.

10. Discrimination complaints and the resulting documentation and data will be kept on file in the office of the designee, or in the Provost's office in accordance with federal and state statutes.

### Step 2

1. The complainant or respondent may appeal the Provost's decision to the Chancellor or designee within fifteen (15) calendar days after notification of the decision. The appeal must be in writing and must specify why the decision is unsatisfactory.
2. The Chancellor or Chancellor's designee will review the case and render a final decision in writing within twenty (20) calendar days after receipt of the appeal. If an extension of time is needed, the decision will be made within forty-five (45) calendar days, and the complainant will be notified in writing of the expected date for a final decision.

### Withdrawal Procedure

1. Should the complainant decide to withdraw the complaint, Attachment D will be completed then filed with the designee.

### Nonretaliation

Retaliation against any person using this procedure or participating as a witness is prohibited. Complaints of retaliation based on discrimination issues constitute separate charges and will be handled in the same manner as discrimination complaints.

UNIVERSITY OF HAWAII  
COMMUNITY COLLEGES  
COMPLAINT FORM

Complainant

Name \_\_\_\_\_

Address \_\_\_\_\_ Home Phone \_\_\_\_\_

\_\_\_\_\_ Work Phone \_\_\_\_\_

Respondent -- office or individual that discriminated against you

Name \_\_\_\_\_ Phone \_\_\_\_\_

Department \_\_\_\_\_

Alleged Cause of Discrimination (please specify)

- Race/Color \_\_\_\_\_  Age \_\_\_\_\_  Sexual Harassment  
(refer to CCCM 2200)
- Religion \_\_\_\_\_  Veteran Status \_\_\_\_\_  Sex \_\_\_\_\_
- Nat'l Origin \_\_\_\_\_  Handicap \_\_\_\_\_  Retaliation  
(related to EEO  
issues only)
- Arrest & Court Record  Other \_\_\_\_\_

Type of Charge

- Informal  Formal Investigation

Explain how You believe You were discriminated against.

Specify the nature of the discriminatory action (promotion denial, harassment, discharge, etc.) and the persons involved. Describe how you were treated differently from others. Include date(s) of the discrimination (first occurrence and most recent occurrence), possible witnesses to the events, and documentary evidence.

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What corrective action or remedies are you seeking?

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Complainant's Signature

Pursuant to the written discrimination complaint I have submitted, I agree that this statement of charges may be used during any investigation of the case. Appropriate administrators and the respondent will have the opportunity to read the complaint. I further consent to the disclosure of information contained in my complaint to witnesses for the purpose of investigating my allegations.

I understand that any retaliation against the complainant is prohibited by University policy and is subject to further grievance.

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Signature

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Date

For Office Use Only

Case number \_\_\_\_\_



University of Hawaii  
Community Colleges

Campus: \_\_\_\_\_

MEMO TO: Designee  
University of Hawaii  
Community Colleges

Pursuant to the written complaint I have submitted with regard to discrimination violations, I agree that my statement may be used during any investigation of my complaint. Appropriate administrators and the respondent will have the opportunity to read the complaint. I further consent to the disclosure of information contained in my complaint to witnesses interviewed for the purpose of investigating my allegations.

Complainant Name: \_\_\_\_\_  
(print)

\_\_\_\_\_  
Signature

Date: \_\_\_\_\_

For Office Use:

1. Case: \_\_\_\_\_
2. Date Submitted: \_\_\_\_\_

NOTICE OF EMPLOYEE RIGHT TO UNION REPRESENTATION

\_\_\_\_\_, do you know that you are in the presence of \_\_\_\_\_, who will be investigating a complaint filed against you?

(Respondent)

Yes \_\_\_\_ No \_\_\_\_

I wish to advise you that I am going to ask you questions about an alleged discriminatory practice which occurred on \_\_\_\_\_ at \_\_\_\_\_

(Date)

\_\_\_\_\_. But first I want to inform you of certain employee rights that you have in accordance with the provisions of the legally recognized employer-employee agreement relating to representation.

(Location)

Before I ask you any questions, you must understand your rights. You have the right to have a union representative present during the interview or to consult with your agent prior to this interview.

Do you want your union representative present? Yes \_\_\_\_ No \_\_\_\_

Do you want to consult with the union before meeting with me? Yes \_\_\_\_ No \_\_\_\_

Signed: \_\_\_\_\_

(Name)

\_\_\_\_\_  
(Date)

Witnessed by:

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Date) (Time)



UNIVERSITY OF HAWAII  
COMMUNITY COLLEGES

WITHDRAWAL OF COMPLAINT AND RELEASE

Charge \_\_\_\_\_

Date(s) of alleged violation \_\_\_\_\_

Date of Complaint \_\_\_\_\_ Case No. \_\_\_\_\_

I, \_\_\_\_\_, after clear and careful consideration, have decided not to testify in the above case.

I fully understand that the aforesaid charges cannot be investigated or resolved without my testimony and, therefore, must be dismissed by the University of Hawaii.

Acting on behalf of myself and my representatives, I hereby release and forever discharge the University, State of Hawaii, and all their past and present officers, employees, agents, and all others connected with the University or the State of Hawaii, from any and all claims and causes of action, known or unknown, concerning the actions giving rise to or otherwise related to the aforesaid charges.

I am signing this Release freely and voluntarily and under no coercion or duress.

\_\_\_\_\_  
Signature of Complainant

\_\_\_\_\_  
Date