



Prepared by the Office of the President.
This is a new Administrative Procedure.


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EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION

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A9.920 DISCRIMINATION COMPLAINT PROCEDURES FOR EMPLOYEES,
STUDENTS, AND APPLICANTS, FOR EMPLOYMENT OR ADMISSION

1. Purpose

 To comply with grievance procedure requirements under various federal regulations and nondiscrimination laws and to carry out Executive Policy El.202, University Statement of Nondiscrimination and Affirmative Action, and 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.

2. Objective

To provide a timely and effective means of resolving discrimination complaints.

3. Policy

The University is committed to a policy of nondiscrimination on the basis of race, color, national origin, sex, physical and mental handicap, and age in all of its programs, policies, procedures, or practices. This nondiscrimination policy covers students, employees, and applicants for admission and employment. It covers admission and access to, participation, treatment, and employment in University programs and activities.

Employees and job applicants are also covered by state and federal laws which prohibit discrimination in employment on the basis of veteran status, marital status, religion, ancestry, and arrest and court record.

4. Definition

A discrimination complaint is a formal or informal complaint filed with the campus Grievance Officer that an individual or unit of the University has violated University policy or state or federal laws regarding nondiscrimination.

5. Applicability

All University of Hawaii students, employees, and applicants for admission or employment may use these procedures for the purpose of filing discrimination complaints. Sexual harassment complaints should be filed under campus procedures for sexual harassment if separate procedures have been established. APT and Civil Service complaints pertaining to equity in pay and classification should be filed under the applicable state or UH systemwide procedure. Employees covered by collective bargaining grievance procedures may file discrimination complaints through the union grievance process or this administrative procedure.

6. Responsibility for Implementation

Overall responsibility for implementation of this complaint procedure rests with the President. The chancellors are responsible for disseminating this procedure on their respective campuses. They shall identify a Grievance Officer and Investigating Officer for each of their campuses and publicize the individuals' names, office phone numbers, and office location. In some cases the Grievance Officer and Investigating Officer may be the same person.

Chancellors may establish separate procedures for students and employees as long as they comply with the guidelines set forth in this administrative procedure.

On each campus and within each major division of the campus, the appropriate chancellor, vice president, provost, dean, or director is charged with responsibility for carrying out the University's nondiscrimination policies within their respective units. These administrators will take measures to prevent discrimination by reviewing the efforts on the part of departments within their units and subdivisions and will institute corrective measures where deficiencies have been identified.

7. 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.

a. Obtaining information

Any student, employee, or applicant for admission or employment who believes they have been discriminated against is encouraged to contact the campus Grievance Officer for information on their civil rights. The person handling the inquiry will explain the avenues of recourse which are available. Information can be requested anonymously and in confidence.


b. Step 1: Informal complaints

- (1) Complainants are encouraged to discuss their grievances with their advisor, supervisor, dean, department head, or other appropriate campus officer.
- (2) If the issue cannot be resolved or if the circumstances of the complaint prevent the student or employee from discussing the matter at the department level, the complainant may contact the Grievance Officer for assistance. The Grievance Officer will attempt to resolve the matter informally.

c. Step 2: Formal Complaint

- (1) Formal complaints are to be filed with the Grievance Officer within 180 days of the most recent incident of alleged discrimination, unless the complainant can show good cause for a later filing, e.g., an informal complaint had been filed at a previous date or other extenuating circumstances.
- (2) The Grievance Officer will inform the complainant

of other avenues of recourse with state and federal enforcement agencies. Complainants are advised to seek information as soon as possible, since filing deadlines with external agencies are as short as 90 days.

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- (3) If an informal resolution has not been attempted, the Grievance Officer may seek to resolve the complaint on an informal level.
 - (4) Formal complaints must be in writing. Attachment A is a recommended complaint form. The complainant must be willing to give sufficient testimony to permit fact-finding and investigation.
 - (5) An Investigating Officer will be assigned to conduct fact finding. He/she will notify 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. Attachment B is a recommended notification form.
 - (6) The Investigating Officer will interview the parties, review any documentary evidence, and interview witnesses deemed by the Investigating Officer to have relevant and material information pertaining to the grievance.
 - (7) The formal investigation will be completed by the Investigating Officer 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.
 - (8) Upon completion of the investigation, the Investigating Officer will submit his/her findings to the campus administrator who has authority over the issue. At UH Hilo and UH West Oahu, this person is the Provost or campus Dean/Director; for the Community Colleges, it is the campus Provost; and for UH Manoa it is the Vice President or Director of Personnel. These administrators have authority to render a decision and, if appropriate, to initiate follow up actions in accordance with the applicable student conduct

codes, collective bargaining contracts, and University policies, procedures, rules, and regulations.

d. Step 3: Appeal

- (1) The complainant or respondent may appeal the campus administrator's decision to the Chancellor or designee within 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 designee will review the case and render a final decision in writing within 20 calendar days after receipt of the appeal. If an extension of time is needed, the decision will be made within 45 calendar days, and the complainant will be notified in writing of the expected date for a final decision.

8. Nonretaliation

Retaliation against any person using this complaint 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.

9. External agency

Nothing in these procedures shall affect the right of the complainant to pursue the matter with an appropriate law enforcement agency. 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.

UNIVERSITY OF HAWAII
EEO 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)

- | | | |
|--|---|--|
| <input type="checkbox"/> Race/Color | <input type="checkbox"/> Age | <input type="checkbox"/> Sexual Harassment |
| <input type="checkbox"/> Religion | <input type="checkbox"/> Veteran Status | <input type="checkbox"/> Sex |
| <input type="checkbox"/> Nat'l Origin | <input type="checkbox"/> Handicap | <input type="checkbox"/> Retaliation (related to EEO issues only) |
| <input type="checkbox"/> Arrest & Court Record | <input type="checkbox"/> 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.

What corrective action or remedies are you seeking?

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 named by me 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.

Signature

Date

For Office use

Case number _____

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ATTACHMENT B

NOTICE OF EMPLOYEE RIGHT TO REPRESENTATION

_____ do you know that you are in the presence
(Respondent)
of _____, who will be investigating a complaint filed against you?
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) (Location)

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.

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)

ATTACHMENT C

UNIVERSITY OF HAWAII
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