



Delta College

Experience the Delta Difference
University Center, MI 48710

GRIEVANCE/COMPLAINT PROCEDURE FOR EQUAL OPPORTUNITY/EQUITY CONCERNS

Delta College, in its continuing effort to seek equity in education and employment and in support of federal and state anti-discrimination legislation, has adopted this procedure for the prompt and equitable investigation and resolution of claims of unlawful discrimination on the basis of race, color, national origin, religion, age, sex, disability, sexual orientation, gender identity, height, weight, arrest record, veteran status, marital status, or other classifications identified in applicable U.S. federal, state, or local law, or in College policy. This includes without limitation unlawful discrimination prohibited by Titles VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, the Age Discrimination in Employment Act of 1967, the Americans with Disabilities Act of 1990, the Michigan Persons with Disabilities Civil Rights Act, and the Michigan Elliott-Larsen Civil Rights Act.

The procedure, which may be used by any member of the Delta College community, provides an internal process to identify, resolve and eliminate incidents of illegal discrimination.

Coverage and Eligibility

This procedure applies to all complaints which may arise in matters of discrimination, equal opportunity and/or equity policies. Complaints which do not involve claims of discrimination should be brought under the appropriate college policy, procedure, or collective bargaining agreement.

Interpretation of Coverage

Where a dispute exists as to whether a particular matter is subject to coverage by these procedures, Delta College reserves the right to make the final judgment through the Office of the Equity Officer. The Equity Officer shall render a written judgment in each case, citing rationale for the decision. The Equity Officer will deny application of the procedure only where the matter in question has no substantive relationship to unlawful discrimination on the basis of race, color, national origin, religion, age, sex, disability, sexual orientation, gender identity, height, weight, arrest record, veteran status, marital status, or other classifications identified in applicable U.S. federal, state, or local law, or to the College's Equal Opportunity/Equity Policy. An appeal of that decision must be submitted in writing to the President's Office within ten working days of receipt of the Equity Officer's decision. The written decision of the President will be conveyed to the appellant within ten working days after receipt of the appeal.

Retaliation

Any retaliatory action of any kind taken by any member of the College community against any other member of the College community as a result of that person seeking a remedy under these procedures, cooperating in an investigation, or otherwise participating in any proceeding under these procedures, is prohibited, and shall be a separate and distinct grievable and disciplinary matter.

Confidentiality

Confidentiality shall be provided to persons choosing to pursue an informal resolution or file a formal grievance under these procedures to the extent possible consistent with carrying out necessary steps under this procedure, including meaningful investigations and hearings, and to the extent possible in

compliance with law. All participants in any investigation or proceeding shall maintain appropriate confidentiality, and failure to do so shall be a separate and distinct grievable and disciplinary matter.

Requirements for Filing Grievances/Complaints

A grievance/complaint should be promptly filed, but not later than 90 calendar days from the time the grievant/complainant becomes aware or should have become aware of the event which gave rise to the grievance/ complaint.

Employee grievances may be filed through one of the following procedures, but not more than one:

- a. This Equal Opportunity/ Equity Grievance/Complaint Procedure
- b. The Senate Grievance Procedure
- c. The Corporate Services Grievance Procedure
- d. The Support Staff Grievance Procedure.
- e. The Local Union #845, Council 25, contract for Food Service and Maintenance employees grievance procedure.

Student grievances may be filed through one of the following procedures, but not more than one:

- a. This Equal Opportunity/Equity Grievance/Complaint Procedure
- b. The Senate Disputed Final Grades Policy
- c. The Student Complaint & Hearing Process.

Although a grievant or respondent always has the option to retain legal counsel at any time, counsel may not participate in these internal grievance procedures, whether formal or informal.

Informal Stage

The informal stage is initiated by filing a signed, dated, written statement with the Equity Officer, one of the College's Ombudspersons, the Dean of Teaching and Learning, the Vice President of Instruction and Learning Services, the Dean of Student and Educational Services, or the Vice President of Student and Educational Services, stating the issue and a desired resolution. The statement must be filed within the timeline required by this Procedure.

Every effort will be made to resolve conflicts through discussion with the involved parties within the College. The concerned individual should obtain copies of the College policies and procedures cited above and talk with the appropriate College personnel responsible for the administration of these policies/procedures to determine which course of action they should take if the concern cannot be resolved informally.

Employee concerns should first be discussed with the person(s) directly involved unless the employee reasonably believes such a discussion would be futile. If the situation is not rectified, or if the employee reasonably believes that a discussion with the person(s) directly involved would be futile, an employee who has a discrimination concern may bring that concern to the attention of the President or his designee, the Equity Officer, an appropriate Executive Staff member, the Dean of Faculty or an appropriate Division Chair, the employee's immediate supervisor, or to an Ombuds Person. Employees are also urged to contact the Equity Officer for help to determine if a violation may have occurred and for help with the options available to resolve their concern.

Student concerns should first be discussed with the person(s) directly involved unless the student reasonably believes such a discussion would be futile. If the situation is not rectified, the student may contact his/her instructor, division chair, appropriate dean, counselor, or other appropriate administrator to assist individuals involved to informally resolve the situation. Students should contact the Grade Ombudsman through the Dean of Students and access the [Disputed Final Grades Policy](#) in cases involving the appraisal of their own academic progress. Students should contact the Vice President of

Student Services and access the [Student Complaint & Hearing Process](#) in cases involving regulations and rules of conduct. Students are also urged to contact the Equity Officer for help to determine if a violation may have occurred and for help with the options available to resolve their concern.

The Equity Officer may assist the complainant in clarifying the charge and the requested remedy, and may provide the complainant with information about the various internal mechanisms through which the complaint may be filed, including applicable time limits for filing of each internal procedure.

The Equity Officer shall seek to resolve the complaint informally and shall have the right to prompt access and copies of all relevant information (documents, communications, personnel files, etc.) and to interview witnesses, including the right to bring together complainant and respondent, as deemed appropriate. The Equity Officer will make every reasonable effort to promptly complete fact finding review and preparation of findings. The Equity Officer will be responsible for an accurate record of all the Equity Officer's findings.

Upon completion of fact-finding and review of pertinent documentation, the Equity Officer will determine whether an act of prohibited discrimination or retaliation has occurred. The Equity Officer shall prepare a recommendation based upon his/her findings and advise the President regarding appropriate steps, if any, to enforce policies, and resolve the stated concern(s).

Should the Equity Officer be unable to resolve the complaint informally, the Officer shall so notify the complainant in writing, advising him/her of their right to proceed to the next step internally which is the formal stage, and/or to file with appropriate external agencies.

Formal Stage

If the concern has not been resolved by informal process, the grievant may submit a written request to the Equity Officer outlining the specific allegations, the facts on which the formal grievance is based, relevant law or College policies or procedure, and resolution sought. The written request must be submitted to the Equity Officer within ten (10) working days of receipt of the non-resolution notice. The written request will include the names of three regular full-time employees who are willing and available to serve as a member of the formal Grievance Committee. The Equity Officer will review the grievance and notify the grievant within five (5) working days of receipt of the request whether the grievance is acceptable or not under the conditions of this process. Formal proceedings may be instituted before all informal remedies have been exhausted only at the discretion of the Equity Officer and President.

Procedures

The Grievance Committee shall consist of:

- a. An employee named in the initial request for a formal grievance hearing. The Executive Staff Member in whose division the grievance arose will choose one name from the three proposed by the grievant.
- b. An employee chosen by the President from a list of three names submitted by the Executive Staff Member.
- c. A third person, who will serve as chairperson, selected by mutual agreement of the two nominated members. The chairperson can be any full-time employee who is willing and available to serve in this capacity. If the two members cannot agree upon a chairperson, the chairperson will be appointed by the President.
- d. In the event that the Executive Staff Member in whose division the grievance arose, or the President, is alleged to have participated in or approved the alleged act of discrimination or harassment, the Equity Officer will request a different Executive Staff member to make the decisions required in (a) or (b) above.

- e. The Equity Officer shall serve (without a vote) as an advisor to the Grievance Committee.

The Grievance Committee shall:

- a. Hear the grievance together with such witnesses as it deems appropriate to the grievance. The Grievance Committee will question all parties as deemed appropriate, but shall not be subjected to questioning by the involved parties.
- b. Serve objectively, without conflict of interest, and shall not advocate for the grievant(s) or respondent(s).
- c. Serve for the duration of the hearing process unless extenuating circumstances arise as determined by the Equity Officer. Conflict of interest will be cause for the Equity Officer to excuse a committee member. The excused member will be replaced using the procedure outlined in this section.
- d. Close the hearing to all but required participants, if it determines that this would be in the best interests of a participant or the College.
- e. Assure that an accurate record of the proceedings of the committee is written.

Both the grievant and respondent have the right to:

- a. Receive from the Equity Officer written notice of the complaint, the date(s) and time(s) of the hearing, and the Equity Officer's brief summary of the facts upon which the grievance is based and the corrective action sought.
- b. Choose to have a college employee/student serve as his/her advisor during the proceedings. Advisors may not participate actively in the proceedings but may be present and may communicate with the grievant in a manner that does not disrupt the proceedings. Grievants/respondents may not have an attorney present during the proceedings.
- c. Present evidence and to question the evidence of the other party. However, neither party shall question the other, the committee members, or witnesses.
- d. Request that formal grievance proceedings be closed. The Committee will make the decision to honor or reject the request.

The Grievance Committee shall base its decisions strictly on the evidence presented, reach its findings, prepare a report, and make recommendations to the President within fifteen (15) business days of the Committee's first meeting. The Grievance Committee shall observe the following guidelines in handling the formal complaint hearing as it pertains to evidence presented:

- a. Consider complaints on a case-by-case basis.
- b. Review the Equity Office complaint file which includes the record of the complaint, fact-finding interviews, and any other documentation related to the complaint.
- c. Approach the hearing process with objectivity toward both parties, witnesses, the evidence presented, the decision-making process, rationale, and recommendations.
- d. Limit communication concerning the evidence presented to that necessary to conduct the hearing and develop and report the written recommendation to the President or his/her designee.
- e. Formulate questions in advance for the grievant, respondent, and witnesses in order to gather the facts. Follow-up questions may be asked during the hearing process as appropriate.
- f. Consider circumstantial evidence and inferences from the circumstances.
- g. Develop written recommendation(s) and rationale(s).

The Chairperson of the Grievance Committee will inform the President or his/her designee in writing of the Committee vote, recommendation(s) and rationale used in decision making.

The President or his/her designee will issue a written decision in response to the Grievance Committee's report within fifteen (15) working days of receipt of the formal Grievance Committee's written report. In

the event that the President determines that discrimination and/or harassment has occurred, the decision will specify the action(s) to be taken along with a timetable for action.

Copies of the finding(s) and recommendation(s) and of the President's response will be made available to the grievant and the respondent.

The Equity Officer will communicate the results of the hearing and the decision of the President to those with a need to know this information. Without limiting the generality of the term, those with a need to know would include such persons as the supervisor of an employee who has been found to have discriminated against or harassed a person in a protected classification, their supervisors up to the Executive Staff level, and appropriate persons in offices such as Human Resources or the General Counsel's office; or in the case of a student who is found to have discriminated against or harassed a person in a protected classification, also included would be the persons in the Academic, Student Services and other offices who need to take appropriate action.