

# **Procedures for Resolution of Discrimination / Harassment** **Complaints**

## **Office of Access and Equity**

*These procedures will be applied in conjunction with the following Clemson University Policies for Equitable Treatment: Affirmative Action / Equal Employment Opportunity Policy, Policy on HIV Disease and Aids, Policy for Individuals with Disabilities, Policy for Disabled and Vietnam-Era Veterans, and Harassment Policy.*

*(These policies can be found at <http://www.clemson.edu/access/> under “Policies”.)*

*These procedures apply to complaints of discrimination based on age, color, disability, gender, national origin, race, religion, sexual orientation, or veteran’s status. The Office of Access and Equity is responsible for investigating and processing all such complaints of discrimination / harassment made against any member of the Clemson University community, including faculty, staff, or students, or any vendor or contractor conducting business within the university with one exception. Any grievance submitted as a Category I Faculty Grievance under the Faculty Manual will be handled in accordance with the procedures outlined in the Faculty Manual ([www.lib.clemson.edu/fs/FacultyManual/FacultyManual.pdf](http://www.lib.clemson.edu/fs/FacultyManual/FacultyManual.pdf)) even if the grievance includes allegations of discrimination.*

All members of the Clemson community should contact the Office of Access & Equity if they observe or encounter conduct that may violate any of the University’s Policies for Equitable Treatment. Reports of alleged violations may also be made to an immediate supervisor. Alternatively, if the immediate supervisor is the alleged harasser, complaints may be made to the next level supervisor. Students can report alleged violations to the Office of the Dean of Students (undergraduate students), the Dean of the Graduate School (graduate students), Academic Deans, Department Chairs, or directly to the Office of Access and Equity. University officials, managers, Deans, Department Chairs, and supervisors that receive a complaint of discrimination / harassment are required to notify the Office of Access and Equity in order to have complaints promptly processed under the Informal and/or the Formal Complaint process described below. Information essential to an investigation must be provided to the Office of Access and Equity upon request.

Reports of discrimination/harassment should be brought as soon as possible after the alleged conduct occurs. Prompt reporting enables the University to more effectively investigate the facts, determine if a violation of any policy has occurred, and provide an appropriate remedy or disciplinary action. Therefore, complaints investigated under this procedure must be reported as described in the previous paragraph no more than 120 days after the complaining party becomes aware of the allegedly discriminatory or harassing conduct.

### **Informal Complaint Process**

The goal of the Informal Complaint Process is to resolve concerns at the earliest stage possible with the cooperation of the parties involved. This process includes but is not limited to discussions with

the parties, mediating an agreement between the parties, referring the parties to counseling programs, conducting targeted educational and training programs, and making other recommendations for resolution. Upon notification of an informal complaint, an investigator in the Office of Access and Equity will conduct an investigation into the allegations using the following process:

- Discussions will be conducted separately with the complainant and the accused to review the allegation(s) and develop a mutually satisfactory resolution. If deemed appropriate, the investigator may bring the parties together for a joint discussion.
- The resolution process will be confidential to the extent permitted by law. The Office of Access and Equity shall advise all parties of the confidentiality of the investigation and the strict prohibition against retaliation.
- A written record of the allegation(s) and the resolution will be provided to the parties and retained in the Office of Access and Equity.
- If the investigator, after hearing the complainant's statement, determines that a formal investigation is necessary, the complaint will be handled under the Formal Investigation Process below.
- Resolution of complaints handled under the Informal Complaint Process shall either be completed within 30 days of receipt of the complaint by the Office of Access & Equity or referred to the Formal Complaint process within that time period. The Office of Access & Equity shall notify all parties in writing if a matter originally submitted under the Informal Complaint process is going to be handled under the Formal Complaint process.
- The Informal Complaint Process is an optional step. The complaining party or the Office of Access and Equity may decide to skip the Informal Complaint Process and proceed under the Formal Complaint Process.

### **Formal Complaint Process**

The formal complaint process will be followed by the Office of Access and Equity if the informal complaint process is not successful or appropriate for addressing the allegations of the complaining party (such as when the facts are in dispute in reports of serious misconduct). The wishes of the individual making the report shall be considered but are not determinative in the decision to initiate the Formal Complaint Process. For example, the University may determine that it is obligated to proceed under the Formal Complaint Process due to the seriousness or nature of the allegations even if the complaining party would prefer to proceed under the Informal Complaint Process. Upon notification of a formal complaint, an investigator in the Office of Access and Equity will conduct an investigation into the allegations using the following process:

- The process will be confidential to the extent permitted by law. The Office of Access and Equity shall advise all parties of the confidentiality of the investigation and the strict prohibition against retaliation.
- The investigation shall include interviews with the parties, interviews with other witnesses as needed, and a review of relevant documents if appropriate. If all witnesses identified by the parties are not interviewed, the investigator will document the reason the interviews were not conducted.
- The individual(s) accused of violating any Clemson Policy for Equitable Treatment shall be given a written statement of the allegations made by the complainant.

- The investigation shall be completed as promptly as possible and in most cases within 45 days of the date the Formal Investigation Process was initiated. If the investigation cannot be completed within 45 calendar days because of valid extenuating circumstances, the complainant will be notified and given a projected time of completion. In cases where the complaint is submitted to Access & Equity near the end of the semester, the 45-day limit can be suspended until the start of the following semester if necessary to conduct interviews of witnesses or primary parties who were unavailable during academic breaks.
- The investigation should result in a written report that includes a statement of the allegations, the positions of the parties, a summary of the findings of fact, and a determination by the Investigator as to whether University policy has been violated, and recommendations for actions to resolve the complaint if appropriate. If all witnesses identified by the parties were not interviewed, the report shall include a statement explaining why. The report shall be submitted to the University official(s) with authority to implement the actions necessary to resolve the complaint.
- The complainant and the accused shall be informed within 30 days of the conclusion of the investigation that the investigation is complete and whether any violations of policy were found. The complainant shall be informed of actions taken to resolve the complaint only if they are directly related to the complainant, such as a directive that the accused not contact the complainant. The complainant may generally be notified that the matter has been referred for disciplinary action, but shall not be informed of the details. Both parties will be notified if all witnesses they identified were not interviewed and the reason they were not interviewed.

### **Appeals of the Formal Complaint Process**

- The complainant or accused has a right to appeal the decision of the formal complaint process.
- Appeals must be submitted in writing to the Office of the President of the University within 7 working days (excluding weekends and University holidays) after receipt of the final report of the formal complaint process. The President will appoint a member of his Administrative Council to review and decide the appeal.
- Decisions not appealed within such time are deemed final.
- The appointed member of the Administrative Council will issue a decision on the Appeal to all parties involved within thirty (30) calendar days after receipt of the written Appeal.

### **Filing with External Agencies**

In addition to, or in lieu of, the procedures outlined above, a complainant may file complaints with external agencies as follows:

- Students (undergraduate or graduate) may file a complaint with the United States Department of Education, Office for Civil Rights. Complaints must be filed within 180 calendar days of the date of the most recent alleged discrimination.
- Employees may file complaints with one of two external agencies: the South Carolina Human Affairs Commission (must file within 180 calendar days of the date of the most

recent discrimination); or the U. S. Equal Employment Opportunity Commission (must file within 300 calendar days of the most recent alleged discrimination.)

### **Temporary Measures**

At any point in the informal or formal complaint process, the investigator may recommend interim actions to protect parties or witnesses to the investigation including but not limited to separating the parties, reassignment, alternative work or student housing arrangements or other types of temporary measures. The University also reserves the right to issue no contact provisions to any or all parties involved in the procedures.

### **Retaliation Prohibited**

Retaliation is conduct causing any interference, coercion, restraint or reprisal against a person filing a complaint of discrimination/harassment or assisting in any way in the investigation and resolution of a complaint. Retaliation is a violation of the University's Harassment Policy and appropriate sanctions will be taken against anyone found to have participated in any acts of retaliation.

- Persons who feel they have been subjected to retaliation for filing a complaint of discrimination/harassment or for assisting with the resolution of a complaint should contact the Office of Access and Equity.