

DISCRIMINATION COMPLAINT PROCEDURE

I. STATEMENT OF NON-DISCRIMINATION

Luzerne County Community College (hereinafter referred to as the “College”) is committed to a work, academic and public environment in which all individuals are treated with respect and dignity. The College and its employees have a moral and legal obligation to provide equal access and equal opportunity to all members of the community. The administration will ensure that this commitment is fully implemented through compliance with all relevant federal, state, and municipal laws, statutes and ordinances prohibiting discrimination, including, but not limited to the First Amendment to the United States Constitution; the Constitution of the Commonwealth of Pennsylvania; Title VII of the Civil Rights Act of 1964, as amended by the Civil Rights Act of 1991 (“Title VII”); Title IX of the Education Amendments of 1972, Section 503 of the Rehabilitation Act of 1973; the Vietnam Era Veterans Readjustment and Assistance Act (“VEVRAA”); the Genetic Information Nondiscrimination Act (“GINA”); the Age Discrimination in Employment Act (“ADEA”); The Older Workers Benefit Protection Act (“OWBPA”); the Americans with Disabilities Act (“ADA”); the Pennsylvania Human Relations Act (“PHRA”); the Family and Medical Leave Act (“FMLA”); the Employee Retirement Income Security Act of 1974 (“ERISA”); the Sarbanes-Oxley Act, the Fair Credit and Reporting Act (“FCRA”), the Cleary Act, and the Violence Against Women Act and any amendments to these laws. The institution will implement procedures and measures designed to ensure that employees, students, applicants and visitors to the campus or any site or program of the College are not discriminated against on the basis of race, color, gender, sexual orientation, disability, age, veteran status, national origin, religion, marital status, political affiliation, ancestry, union membership and use of a guide or support animal because of blindness, deafness, or physical handicap in the administration of its educational programs, activities, admission or employment practices. Any acts of reprisal, retaliation or harassment taken against an individual because he/she has filed a discrimination complaint, testified about matters related to a complaint, or otherwise assisted a complaint inquiry are forbidden and may result in severe disciplinary action. Inquiries may be directed to the Dean of Human Resources, who is designated by the College as its Title IX Coordinator, at 800-377-5222 extension 7234. The College takes any allegation of discrimination as serious. Any individual who knowingly or intentionally makes a false allegation or complaint, will be disciplined, up to and including termination of employment.

II. COMPLAINT PROCEDURE

This procedure is adopted in order to provide a consistent, transparent process for the prompt and equitable resolution of all complaints of harassment or discrimination. It applies to all employees, students, members of the Board of Trustees and all visitors to the campus and/or any site or program of the College. The procedure is as follows:

- A. Any individual who believes he/she may have experienced discrimination may confidentially discuss his or her concerns or lodge a formal complaint with the Dean of Human Resources.
- B. Any complaint of alleged discrimination concerning the Dean of Human Resources shall be presented to the President of the College by the complaining party. Any complaint of alleged discrimination concerning the President shall be made directly to the Chairperson of the Human Resources Committee of the Board of Trustees.
- C. Any employee who becomes aware of or has any suspicion of discrimination against any individual must bring this to the attention of the Dean of Human Resources.

- D. Every reasonable effort will be made to protect the anonymity of the complainant. All complaints should be made within forty-five (45) days of the instance giving rise to the alleged discrimination.
- E. Upon receipt of any complaint or information concerning alleged discrimination or harassment, the Dean of Human Resources must initiate and perform an investigation into the allegation or allegations. This must be completed within a reasonable amount of time, but no later than thirty (30) days from the date the Dean is presented with the allegation. The same obligation applies to the President of the College, should the allegation be against the Dean of Human Resources and the Chairperson of the Board of Trustees Human Resources Committee should the allegation be concerning the President.

The College will investigate the allegations in any formal complaint and send written notice to both parties (complainants and respondents) of the allegations upon receipt of a formal complaint. When investigating, the burden of gathering evidence and the burden of proof remains with the College, not the parties. Both parties will have equal opportunity to present fact and expert witnesses and any other inculpatory or exculpatory evidence. Each party may select an advisor of his or her choice who may be, but need not be, an attorney. The College will send written notice of any investigative interviews, meetings or hearings and will send to the parties and their advisors evidence directly related to the allegations, in electronic format or hardcopy, within at least ten (10) days for the parties to inspect, review and respond to the evidence. The College will send the parties and their advisors an investigative report which summarizes relevant evidence in electronic format or hardcopy with at least ten (10) days for the parties to respond.

The process will provide for a live hearing. At the live hearing, each party's advisor shall be permitted to ask questions of the other party and any witnesses. A cross examination at the live hearing must be conducted directly, orally and in real time by the party's advisor of choice and never by a party personally. If either party requests, the hearing shall occur with the parties located in separate rooms, with technology enabling the parties to see and hear each other. If a party does not have an advisor present at the live hearing, the College will provide, to the party, an advisor of the College's choice who may be, but is not required to be, an attorney, to conduct cross examination on behalf of that party. The College will create an audio or audio visual recording transcript of the hearing.

The standard of evidence which the College will use to determine responsibility is the preponderance of the evidence standard. The decision-maker (who will not be the same individual as the Title IX coordinator or the investigator) will issue a written determination regarding responsibility with findings of fact, conclusions about whether the alleged conduct occurred, rationale for the result as to each allegation, any disciplinary sanction imposed on the respondent and whether remedies will be provided to the complainant. This determination will be sent simultaneously to the parties along with information about how to file an appeal.

- F. The Dean of Human Resources must report his or her findings to the President of the College (in all matters except where the allegations are against the Dean of Human Resources and/or the President). The President must report his or her findings to the Chairperson of Human Resources Committee of the Board of Trustees (in cases where the allegation is against the Dean of Human Resources). The Chairperson of the Human Resources Committee of the Board of Trustees must report his or her findings to the Chairperson of the Board of Trustees (in cases where the allegation is against the President of the College). The results of the investigation must be presented as promptly as possible following the completion of the investigation.
- G. The results of the investigation and disposition of the allegations are to be made known to the complaining party and the respondent as promptly as possible. If the complaining party is not

satisfied with the disposition of the allegation or allegations, he or she may appeal to the President of the College (in all matters not involving allegations against the Dean of Human Resources or the President of the College), the Chairperson of the Board of Trustees Human Resources Committee (in cases where the allegation is against the Dean of Human Resources) and the Chairperson of the Board of Trustees (in cases where the allegation is against the President of the College). The decision of these individuals, after due consideration, is final.

The College offers both parties an appeal from a determination regarding responsibility, and from the College's dismissal of a formal complaint or any allegations therein, on the following bases: procedure irregularity that affects the outcome of the matter, newly discovered evidence that could affect the outcome of the matter, and/or if Title IX personnel had a conflict of interest or bias that affected the outcome of the matter.