

## **DISCRIMINATION GRIEVANCE PROCEDURE**

It is the policy of New Mexico Junior College to work with employees in finding fair and just solutions to problems such as discrimination. The purpose of this procedure is to provide employees a means to have these problems or disputes heard, investigated and resolved without fear of reprisal. It is intended that these problems be resolved at the lowest possible administrative level. With cooperation between employees and supervisors, this shall be achieved; however, should the need arise; the grievance procedure may be used, if necessary.

The Human Resources Office/Affirmative Action Plan Coordinator shall assist employees or supervisors in either the preparation or resolution of appeals.

### **I. General Procedures**

- A. The grievance procedure shall be disseminated to every employee as an integral part of the EEO/AAP document. Each employee shall understand the encouragement to resolve problems with objectivity, freedom from fear of retaliatory consequences or reprisals and within a reasonable amount of time.
- B. These procedures apply to all grievances, which may arise in matters involving rights provided for under the AAP, which directly affect the personal interests and well-being of an individual employee.
- C. Where a dispute exists as to whether a particular matter is subject to coverage by these grievance procedures or by other policy or procedures, the College reserves the right to make the final judgment on that question.
- D. The President shall interpret the coverage of these procedures and shall deny application of these procedures where the matter in question clearly concerns issues other than discrimination based on race, color, religion, sex, national origin, age, disability, genetic information, or veteran status.

### **II. Informal Grievance**

- A. The employee is encouraged to discuss a problem or complaint with his/her immediate supervisor in an attempt to resolve the problem prior to filing a formal complaint.
- B. If the grievance remains unresolved, he/she shall discuss it with his/her department/division supervisor.
- C. If circumstances of the grievance prevent using Step 1 and/or Step 2, or if the department/division supervisor does not resolve the grievance within five (5) working days, the employee shall discuss the grievance with the Human Resources Office/Affirmative Action Plan Coordinator.

- D. If the grievance involves a question or opinion not covered by the state or federal non-discriminatory regulations, the Human Resources Office/ Affirmative Action Plan Coordinator shall counsel with the employee, the supervisor and/or the department/division supervisor to resolve the grievance.
- E. Any retaliatory action of any kind taken by any employee of the College by or against any other employee as a result of that person's seeking redress under these procedures, cooperating in an investigation or other participation in any proceeding under these procedures is strictly prohibited.

### III. Formal Grievance

- A. If an aggrieved employee alleges discrimination, and if his/her grievance has not been resolved by informal appeal, he/she shall submit a request in writing to the Human Resources Office/Affirmative Action Plan Coordinator to have the grievance considered by a formal grievance committee.
- B. Procedure:
  - 1. A written request for a formal EEO grievance hearing shall clearly state the alleged discrimination and shall include the nomination of one full-time employee who is willing and available to serve as a member of a grievance committee.
  - 2. The Human Resources Office/AAP Coordinator shall either approve or disapprove the request for a formal hearing. If the request is disapproved, the Human Resources Office/AAP Coordinator shall state the reasons therefore in writing. If approved, the Human Resources Office/AAP Coordinator shall appoint a grievance committee to meet within ten (10) days or as soon thereafter as possible. Such a committee shall include:
    - a. The employee so named in the original request or a substitute employee satisfactory to the aggrieved.
    - b. An employee nominated by the Human Resources Office/AAP Coordinator.
    - c. A third person selected by mutual agreement of the other two (2) members shall serve as committee chairperson. The chairperson shall be any regular full-time employee who is willing and available to serve in this capacity. If the two (2) members cannot agree upon a chairperson, the chairperson shall be appointed by the President.
  - 3. The Human Resources Office/AAP Coordinator shall serve as secretary and advisor to the committee but shall not vote.
- C. The grievance committee shall hear the grievance and may call such witnesses, as it deems relevant to the grievance and necessary to make its

determination. Proceedings shall be open or closed at the discretion of the grievant. Since these proceedings are internal institution procedures, participation is limited to full-time employees. This limitation shall not apply to witnesses that may be called by either side. Deliberations shall adhere strictly to due process and the proceedings shall be recorded.

- D. Within fifteen (15) working days of the committee's formation, the grievance committee shall make a determination of whether there is cause to believe discrimination has occurred. The committee shall present its report and recommended action to the College President. The Human Resources Office/AAP Coordinator shall forward a copy of the decision to the grievant and other parties to the grievance.
- E. Appeal:
  - 1. The decision of the committee may be appealed in writing to the President by the aggrieved employee, the supervisor and/or the department/division supervisor within three (3) working days of receipt of the decision.
  - 2. The President shall review and consider all memos, minutes and recordings of the grievance committee proceedings related to the decision.
  - 3. The decision of the President shall be final.
  - 4. The aggrieved employee may pursue other appeals as provided by state and federal laws or regulations after completely exhausting all grievance procedures provided herein.

