

Employee Complaint Procedure

AP XXXX

1. Purpose

This procedure provides District employees with a process to raise and seek resolution of work-related concerns that the employee believes adversely affect their ability to perform their job duties or the work environment.

Complaints may involve, but are not limited to, inappropriate workplace conduct, intimidation, coercion, bullying, or written, verbal, or non-verbal conduct by another District employee that is not otherwise subject to another District complaint, grievance, investigation, disciplinary, or appeal procedure.

The District encourages workplace concerns to be addressed promptly and at the lowest appropriate level whenever practicable. Concerns may be addressed informally or through the formal complaint and review process described below.

Nothing in this procedure limits the District's authority or responsibility to independently review or investigate workplace conduct when circumstances warrant.

2. Scope and Relationship to Other District Procedures

This procedure applies to employee workplace complaints that are not subject to another District complaint, grievance, investigation, disciplinary, or appeal procedure.

This procedure does not supersede or replace any rights, responsibilities, procedures, or timelines established by applicable law, collective bargaining agreement, Board Policy, or Administrative Procedure, including procedures governing:

- a. Unlawful discrimination, harassment, and retaliation;
- b. Sexual harassment and sex discrimination under Title IX or other applicable law;
- c. Whistleblower complaints or reports of unlawful activity;
- d. Employee discipline, performance evaluations, or other personnel actions subject to a separate review or appeal process;
- e. Contractual grievances; or
- f. Any other matter for which the District has established a specific complaint, investigation, grievance, or appeal procedure.

Allegations of unlawful discrimination, harassment, or retaliation based on a protected characteristic shall be processed pursuant to the applicable District policies and procedures, including BP/AP 3410, BP/AP 3430, AP 3433, AP 3434, and AP 3435, as applicable. Human Resources shall determine the appropriate procedure under which a complaint will be addressed.

When a complaint raises multiple allegations that may be governed by different procedures, Human Resources may separate, coordinate, or consolidate the review of those allegations as appropriate and consistent with applicable law, Board Policy, Administrative Procedure, and any applicable collective bargaining agreement.

A complaint initially submitted under this procedure will not be rejected solely because another District procedure applies. Human Resources shall instead refer the complaint, or the applicable portion of the complaint, to the appropriate process and notify the employee.

3. Complaint Intake and Levels of Review

Employees may bring workplace concerns to their immediate supervisor, another appropriate administrator, or Human Resources.

College Human Resources shall generally serve as the initial Human Resources point of contact for employees assigned to a college. Upon receiving a complaint, College Human Resources shall determine, in consultation with District Human Resources when appropriate, whether the matter is:

- a. Appropriate for informal resolution;
- b. Appropriate for review under this Employee Complaint Procedure; or
- c. Subject to another District policy, procedure, collective bargaining agreement, or legally required complaint process.

Formal complaints proceeding under this procedure shall be reviewed at the lowest appropriate level and may advance as follows:

Level I – College Human Resources

The Human Resources Director or designated Human Resources administrator at the employee's primary college.

Level II – Associate Vice Chancellor, Human Resources

An employee dissatisfied with the Level I determination may request review by the Associate Vice Chancellor, Human Resources.

Level III – Vice Chancellor, Human Resources

An employee dissatisfied with the Level II determination may submit a final appeal to the Vice Chancellor, Human Resources.

For District Office employees, the Vice Chancellor, Human Resources or designee shall designate the appropriate initial reviewing authority. The employee shall retain access to at least one level of review by a Human Resources administrator who was not responsible for the initial determination.

Automatic Advancement or Reassignment

A complaint shall begin at, or be reassigned to, the next appropriate level when the individual who would otherwise be responsible for reviewing the complaint:

- a. Is the subject of the complaint;
- b. Is directly involved in the events giving rise to the complaint;
- c. Previously made the decision or took the action that is the subject of the complaint; or
- d. Has another actual or reasonably perceived conflict that would interfere with an impartial review.

If the complaint involves the Vice Chancellor, Human Resources, the complaint shall be submitted to the Chancellor or designee.

The Vice Chancellor, Human Resources may reassign or advance a complaint when appropriate based upon the nature or seriousness of the allegations, the individuals involved, potential conflicts of interest, or other circumstances affecting an impartial or effective review.

4. Informal Resolution

- a. Employees are encouraged, but are not required, to attempt to resolve workplace concerns informally when appropriate.
- b. An employee may raise a concern with their immediate supervisor, another appropriate administrator, or College Human Resources.
- c. College Human Resources may assist in identifying an appropriate informal resolution. Informal resolution may include facilitated discussion, clarification of expectations, mediation, coaching, training, changes in workplace practices, or other appropriate measures.
- d. Participation in informal resolution is voluntary and does not prevent an employee from submitting a formal complaint.
- e. Human Resources may determine that informal resolution is not appropriate based upon the nature or seriousness of the allegations.
- f. If information received during the informal process indicates that another District policy or procedure applies, Human Resources shall refer the matter to the appropriate process.

5. Level I – Formal Complaint to College Human Resources

- a. An employee may initiate the formal complaint process by submitting a written complaint to College Human Resources within thirty (30) working days after the employee knew or reasonably should have known of the event giving rise to the complaint. For allegations involving an ongoing or continuing course of conduct, the complaint should be submitted within thirty (30) working days of the most recent occurrence.
- b. Human Resources may accept a complaint filed after the thirty (30) working-day period when good cause exists or when review is otherwise warranted in the interests of effective District operations.
- c. The written complaint should include:
 - 1. The employee's name, position, and work location;

2. A description of the conduct or circumstances giving rise to the complaint;
 3. Relevant dates and approximate times;
 4. The names and positions of individuals involved;
 5. Potential witnesses, if known;
 6. Supporting documentation, if any;
 7. The resolution requested, if applicable; and
 8. The date submitted and employee's signature or electronic acknowledgment.
- d. Upon receipt, College Human Resources shall determine whether the complaint falls within this procedure or should be referred to another District process.
 - e. College Human Resources shall acknowledge receipt and ordinarily meet with the employee within ten (10) working days.
 - f. The Human Resources Director or designee shall conduct whatever inquiry is reasonably necessary to evaluate the complaint. The inquiry may include interviews, review of documents, obtaining a response from the employee who is the subject of the complaint, consultation with appropriate administrators, or other appropriate fact-finding.
 - g. A formal complaint does not require a full investigation in every instance. The scope of review shall be determined by Human Resources based upon the allegations and the information reasonably necessary to reach an appropriate determination.
 - h. College Human Resources shall ordinarily issue a written determination within twenty (20) working days after completing the necessary inquiry.
 - i. The determination should identify the disposition of the complaint and provide sufficient information to explain the basis for the determination, subject to applicable employee privacy rights.
 - j. If the employee disagrees with the Level I determination, the employee may request Level II review.

6. Level II – Review by Associate Vice Chancellor, Human Resources

- a. An employee seeking review of a Level I determination must submit a written appeal to the Associate Vice Chancellor, Human Resources within ten (10) working days after receiving the determination.
- b. The appeal shall include or identify:
 1. The original complaint;
 2. The Level I determination; and
 3. The specific basis for requesting modification or reversal of the determination.
- c. Level II is a review of the Level I determination and record and is not a new investigation.
- d. The Associate Vice Chancellor shall determine whether:
 1. The complaint was appropriately reviewed;
 2. The determination is reasonably supported by the information obtained;
 3. Applicable District policies and procedures were appropriately applied; and
 4. Additional inquiry is necessary before a decision can be made.
- e. The Associate Vice Chancellor may obtain additional information, meet with the employee or other individuals, or return the matter to College Human Resources for additional review when necessary.

- f. The Associate Vice Chancellor may affirm, modify, or overturn the Level I determination, return the matter for additional review, or take other action appropriate under the circumstances.
- g. A written Level II determination shall ordinarily be issued within twenty (20) working days after receipt of the complete appeal or completion of any additional inquiry determined necessary.

7. Level III – Final Appeal to Vice Chancellor, Human Resources

- a. An employee dissatisfied with the Level II determination may submit a final written appeal to the Vice Chancellor, Human Resources within ten (10) working days after receiving the Level II determination.
- b. The appeal shall identify the specific basis upon which the employee believes the Level II determination should be modified or overturned.
- c. The Level III appeal is ordinarily limited to review of the complaint record and shall consider whether:
 - 1. The established complaint procedure was substantially followed;
 - 2. The determination is reasonably supported by the record;
 - 3. Relevant information was not considered that could reasonably have affected the outcome; or
 - 4. District policy or procedure was incorrectly applied.
- d. The Vice Chancellor may, at their discretion, request additional information, conduct or direct additional inquiry, meet with individuals involved, or return the matter to a prior level for additional review.
- e. The Vice Chancellor may affirm, modify, or overturn the prior determination or take other action appropriate under the circumstances.
- f. A final written decision shall ordinarily be issued within twenty (20) working days after receipt of the complete appeal record or completion of any additional inquiry determined necessary.
- g. The decision of the Vice Chancellor, Human Resources is final and constitutes completion of this Employee Complaint Procedure.

8. Representation

An employee may be accompanied by a representative during a formal complaint meeting when permitted by applicable law or collective bargaining agreement.

A representative may advise and support the employee but may not obstruct the process or answer questions in place of the employee.

9. Non-Retaliation

The District prohibits retaliation against an employee for submitting a complaint in good faith, providing information, serving as a witness, or otherwise participating in a review conducted pursuant to this procedure.

Allegations of retaliation that fall within another District policy or procedure shall be referred to the applicable process.

10. Confidentiality and Privacy

The District will maintain complaint information as private to the extent reasonably possible. Information may be disclosed to individuals with a legitimate need to know in order to review the complaint, provide a response, take corrective or administrative action, comply with applicable law, or otherwise fulfill the District's responsibilities.

Employees participating in the process are expected to respect the privacy of the individuals involved. Nothing in this procedure is intended to unlawfully restrict an employee's rights to discuss working conditions or engage in protected activity.

11. Time Limits

- a. The timelines in this procedure are intended to promote prompt resolution and should be followed whenever reasonably practicable.
- b. Human Resources may extend a timeline when reasonably necessary due to the complexity of the complaint, availability of witnesses or parties, scheduled District closures, the need for additional information, or other good cause. The employee shall be notified of a material extension.
- c. Failure of the District to issue a determination within an established timeline does not establish the merits of a complaint. An employee may request advancement to the next level when a determination has not been issued within the established timeframe and no extension has been communicated.
- d. Failure of an employee to submit an appeal within the applicable deadline shall result in the prior determination becoming final, absent good cause for the delay.