

## **Employee Harassment, Discrimination, Grievance and Complaint Policy**

- (1) Harassment, Discrimination and Retaliation Policy. It is the policy of the Dixie Technical College to provide a work environment for employees and employment applicants free from discrimination and harassment based on race, religion, national origin, color, sex, age, disability, pregnancy, sexual orientation, gender identity or other protected activity or class in accordance with and as required by state or federal law.
- (a) Discrimination on the basis of sex, including sexual harassment, is governed by the College's Title IX Policy.
  - (b) All discriminatory or harassing acts, behavior, and conduct are prohibited, including, but not limited to, comments, jokes, gestures, unwelcome physical contact, drawings, cartoons, videos, emails, texts, name-calling, slurs, or use of derogatory terms. Such conduct is prohibited whether it occurs in person; via email, text or instant messaging; or on social networking sites. These activities are illustrations only; conduct not listed may be considered discriminatory or harassing if it otherwise meets the definition above.
  - (c) Workplace harassment includes the following subtypes:
    - (i) unwelcome conduct based upon the employee's legally protected status that is so severe or pervasive that it that it alters the terms and conditions of the harassed employee's employment, and which results in a hostile work environment;
    - (ii) conduct based upon the employee's legally protected status that results in a tangible employment action against the harassed employee.
  - (d) An employee may be subject to discipline for violating workplace policies, even if:
    - (i) the conduct occurs outside of scheduled work time or work location; or
    - (ii) the conduct is not sufficiently severe to constitute a violation of law.
  - (e) No employment decisions are permitted to be based upon a legally protected status including, but not limited to, decisions regarding hiring, firing, layoffs, discipline and granting or denying raises, promotions, leaves, work assignments, or transfers.
  - (f) No person may retaliate against any employee who opposes a practice forbidden under the college's harassment and discrimination policy, or has filed a charge, testified, assisted or participated in any manner in an investigation, proceeding or hearing, or is otherwise engaged in protected activity.
- (2) Harassment, Discrimination and Retaliation Grievance Procedure. Management shall permit employees who allege workplace discrimination, harassment or retaliation as set forth above to file grievances and engage in a review process free

from bias, collusion, intimidation or retaliation. Grievants shall be provided a reasonable amount of work time to prepare for and participate in internal complaint processes.

- (a) Employees who feel they are being subjected to workplace discrimination, harassment, or retaliation should do the following:
  - (i) document the occurrence;
  - (ii) continue to report to work; and
  - (iii) identify a witness(es), if applicable.
- (b) An employee may file an oral or written complaint of workplace harassment, discrimination, retaliation, or both with their immediate supervisor, any other supervisor within their direct chain of command, or the Human Resources (HR) Department.
  - (i) Complaints may be submitted by any employee, witness, volunteer or other individual.
  - (ii) Complaints may be made through either oral or written notification and shall be handled in compliance with investigative procedures and records requirements in as set forth below.
  - (iii) Supervisors who observe, learn of, or receive complaints of possible discrimination or harassment must promptly inform the HR Officer.
  - (iv) Any supervisor who has knowledge of workplace discrimination, harassment or retaliation shall take immediate, appropriate action in consultation with the HR Department and document the action.
- (c) Once a complaint has been filed, the accused may not communicate with the complainant regarding allegations of discrimination or harassment.
- (d) All complaints of workplace discrimination, harassment or retaliation shall be acted upon following receipt of the complaint.
- (e) If an immediate investigation by agency management is deemed unwarranted, the complainant shall be notified. When warranted, investigations of harassment, discrimination and retaliation grievances, as set forth above, shall be conducted based on the college HR Department's standards and business practices.
  - (i) If the investigation finds the allegations to be sustained, agency management shall take appropriate corrective action, up to an including termination.
  - (ii) If an investigation reveals evidence of criminal conduct in workplace harassment allegations, the college's President or HR Officer may refer the matter to the appropriate law enforcement agency.
  - (iii) At the conclusion of the investigation, the appropriate parties shall be notified.
- (f) Participants in any workplace discrimination, harassment or retaliation proceeding shall treat all information pertaining to the case as confidentially as possible.
- (g) A separate confidential file of all workplace discrimination, harassment and retaliation complaints shall be maintained and stored by the college's HR Department.

- (i) Removal or disposal of these files shall only be done with the approval of the college's President or HR Officer.
  - (ii) Files shall be retained in accordance with the college's retention schedule after the active case ends.
  - (iii) All information contained in the complaint file shall be classified as protected under Section 63G-2-305 of the Utah Code.
  - (iv) Information contained in the workplace discrimination, harassment and retaliation file shall only be released by the college's President or HR Officer when required by law.
  - (v) Supervisors may not keep separate files related to complaints of workplace discrimination, harassment or retaliation.
- (3) Harassment, Discrimination and Retaliation Training. The HR Department shall provide employees training, including additional training for supervisors, on the prevention of workplace discrimination, harassment and retaliation.
- (a) The HR Department shall ensure employees complete workplace discrimination and harassment prevention training upon hire and at least every two years thereafter.
  - (b) Training records shall be maintained by the HR Department that includes who provided the training, who attended the training and when they attended it.
- (4) Adverse Action Complaint Procedure. Regarding adverse action complaints filed in accordance with Section 67-21-3.7(2)(a) of the Utah Code:
- (a) The complainant shall file a written complaint with the HR Officer within 30 days of the alleged adverse action.
  - (b) The HR officer shall assemble an independent personnel board of three members to review the complaint. No member of the board may:
    - (i) be in the same department as the complainant;
    - (ii) be a supervisor of the complainant; or
    - (iii) have a conflict of interest in relation to the complainant or an allegation made in the complaint.
  - (c) The personnel review board shall hear the matter and make a recommendation to the final decision maker, the College President, as set forth in Section 67-2-3.7 of the Utah Code.
    - (i) The hearing is informal to allow a full and complete disclosure. Formal courtroom rules of evidence do not apply.
    - (ii) The burden of proof is on the College to establish by substantial evidence that the action was justified by reasons unrelated to the employee's good faith actions under Section 67-21-3 of the Utah Code.
    - (iii) At the hearing the College and/or the complainant may:
      - (A) be represented by counsel,
      - (B) produce witnesses,
      - (C) hear the testimony for or against the complainant,
      - (D) cross examine witnesses, and
      - (E) examine documentary evidence.
    - (iv) Any probative evidence will be admitted unless it is irrelevant or repetitious.

- (v) Hearsay evidence is admissible but the board's final decision must be based on all credible evidence and not merely on hearsay evidence alone.
  - (vi) The board shall make its recommendation in writing to the College President within 30 days after the day on which the employee files the complaint, or a longer period of time, not to exceed 30 additional days, if the employee and the independent personnel board mutually agree on the longer time period. The board's recommendation shall include:
    - (A) Any relevant findings of fact, and
    - (B) recommended action as provided in Section 67-21-3.7(3) of the Utah Code.
  - (v) The College President shall render a decision after considering the recommendation of the independent personnel board and enter an order within seven (7) days after the day on which College President receives the recommendation.
- (5) Abusive Conduct Complaints. Abusive conduct between employees, as those terms are defined in Section 67-26-203 of the Utah Code, is prohibited.
- (a) A violation of this policy shall be reported in writing by a current employee to the College's Human Resource Officer within 14 days of the alleged abusive conduct. The report shall include all relevant statements of witnesses and documentation. Upon receipt of the report, the College's Human Resource Officer or the President's designee shall:
    - (i) Review the submitted documentation, and gather such other information as he or she determines to be appropriate, and
    - (ii) Issue a decision to the parties (the person alleged to have been the subject of abusive conduct, and the person alleged to have performed abusive conduct).
    - (iii) Within ten days of receiving the decision, either party may request a review by the Colleges Executive Team. If no review is requested within that time, the decision is final.
  - (b) If such a request for review is received by the Executive Team, the Executive Team shall conduct a review of the matter as follows:
    - (i) the role of the administrative review is to review and rule upon the findings of the abusive conduct investigation; an evidentiary hearing is not required;
    - (ii) the Human Resource Officer or the President's designee shall make the abusive conduct investigative file available for the Executive Team's in camera review;
    - (iii) The Executive Team may, but is not required to:
    - (iv) request additional relevant documents; and
    - (v) interview employees.
    - (vi) The Executive Team may overturn the findings if they determine that:
      - (A) the findings are not reasonable, rational, or sufficiently supported by the evidence; or
      - (B) the facts on which the findings are based are inaccurate.
    - (vii) The Executive Team may uphold the findings if they determine that:

- (A) the findings are reasonable, rational, and sufficiently supported by the evidence; and
- (B) the facts on which the findings are based are accurate.
- (viii) Within 30 days after the day on which an employee initiates a review under this section, the Executive Team shall issue a notice stating whether the Executive Team upheld or overturned the findings.
- (ix) The Executive Team's determination upon administrative review of the findings resulting from an abusive conduct investigation is final and not subject to appeal.
- (c) Dixie Tech shall provide annual training to all covered employees on abusive conduct, as those terms are defined above, in the workplace.
- (d) If the Human Resource Officer is the subject of the allegations, the report shall be provided to the College President, who shall appoint another College officer to review the matter.
- (e) This policy is not intended to create any rights or cover any conduct or persons outside the scope of Section 67-26-203 of the Utah Code.
- (6) COE Complaints. Complaints alleging violations of the standards, criteria, conditions, policies, and/or procedures of the College's accrediting body, the Council of Occupational Education, may be directed to:

The Council on Occupational Education  
7840 Roswell Road, Building 300, Suite 325  
Atlanta, GA 30350  
(800) 971-2081 or (770) 396-3898  
[www.council.org](http://www.council.org)

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