

TERRA STATE COMMUNITY COLLEGE
Fremont, OH 43420

COLLEGE PROCEDURES

Procedure #:

**EQUAL EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH A
DISABILITY AND DISABILITY DISCRIMINATION POLICY**

EFFECTIVE: April 23, 2014

(A) Notice of Non-Discrimination

Terra State Community College does not discriminate on the basis of race, color, religion, national origin, ethnicity, sex, age, gender identity, genetic information, gender expression, sexual orientation, marital status, disability, pregnancy, military status, or special disabled or Vietnam-era veteran status in provision of educational programs and services or employment opportunities and benefits pursuant to the requirements of Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Title II of the American with Disabilities Act of 1990, the Age Discrimination Act of 1976, the Vietnam Era Veterans' Readjustment Assistance Act of 1974, and Chapter 4112 of the Ohio Revised Code.

(B) Notice Against Disability Discrimination

Terra State Community College is committed to providing equal employment opportunities for qualified individuals with disabilities and endorses the principles of non-discrimination and reasonable accommodation as described in Section 504 of the Rehabilitation Act of 1972 and Title II of the American with Disabilities Act of 1990. The College will not discriminate against any employee or applicant for employment because of a known disability in regard to any position for which the employee or applicant is qualified. Positive steps will be taken to employ, advance in employment, and otherwise treat known qualified individuals without discrimination based upon their disability in all employment practices, including but not limited to the following: application, testing, hiring, work assignments, evaluation, promotion, transfer, disciplinary actions, recruitment or recruitment advertising, layoff/recall, termination or demotion, rates of pay or other forms of compensation. The College will provide, upon request, reasonable accommodation to known employees with qualified disabilities, if that is needed to enable them to perform the essential functions of their job provided that it does not pose an undue hardship. Additionally, the policy serves as a measure for the college to determine, after the fact, if behaviors have violated policy and provides general guidelines for the expectations the College has for non-discriminatory behavior.

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(C) Filing a Complaint

An employee who wishes to appeal an accommodation request that has been denied or who believes they have been subject to discriminatory treatment is encouraged to report these offenses to the Section 504 Coordinator. Any person who receives a complaint of disability discrimination, harassment or retaliation, is expected to report the incident promptly.

(D) Non-Retaliation

Terra State Community College strictly adheres to and enforces a non-retaliation policy. Retaliation against an individual who has reported discriminatory treatment and retaliation against individuals for cooperating with an investigation is unlawful and will not be tolerated by the College. Any person who violates this policy will be subject to discipline, up to and including termination if they are an employee, and or dismissal if they are a student.

Process:

(1) Investigator

The following individual has been appointed by the President to handle inquiries regarding this policy:

Mr. Heath Martin, Dean of Student and Enrollment Services and Section 504 Coordinator
Terra State Community College
2830 Napoleon Road
Fremont, OH 43420
Office Location: A100
Phone: (419) 559-2350
Email: hmartin01@terra.edu

(2) Definitions

- a. **COMPLAINANT** is the individual making an allegation of a violation of College policy.
- b. **RESPONDENT** is the individual charged with an alleged violation of College policy.

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- c. **A PERSON WITH A DISABILITY** is any person who: (1) has a physical or mental impairment which substantially limits one or more of the such person's life activities; (2) has a record of such impairment; (3) is regarded as having such an impairment; or (4) is otherwise deemed disabled under applicable federal or state law.
- d. **EXAMPLES OF DISABILITIES** are physical, psychological, mental, neurologic, and learning. Certain cosmetic disfigurements and serious contagious and non-contagious diseases including, but not limited to, AIDS, AIDS-related complex, epilepsy, and tuberculosis can be classified as a disability.
- e. **REASONABLE ACCOMODATIONS** is any change in the work environment or in the way things are usually done which results in equal employment opportunity for all individuals with a disability. The College will make reasonable accommodations to the known physical or mental limitations to a qualified employee with a disability, unless the accommodation would cause an undue hardship on the institution.
- f. **RETALIATION** is any action, by any person, that is perceived as: intimidating, hostile, harassing, retributive, or violent that occurred in connection to the making and investigation of the report.
- g. **QUALIFIED INDIVIDUAL** is a person with a disability who meets the skill, experience, education, and other job-related requirements and who, with or without reasonable accommodation, can perform the essential functions of the job.

(3) Accommodation Requests

- a. An employee must disclose their claim of disability and request for accommodations to the Director of Human Resources through a formal consultation. While an employee is free to disclose his or her condition and request to their direct supervisor, and supervisors are encouraged to refer such disclosures to the Director, an employee must not rely on disclosures to persons other than the Director.
- b. At the initial consultation, employees should provide current and valid documentation of the claimed disability. The documentation must specify the nature of the disability, how the disability affects the employees work environment, and recommendations for accommodations. Examples of current and valid documentation include, but are not limited to: written assessment completed by a licensed or certified professional qualified to evaluate the disability or a written evaluation based on assessment reports from the employee's most recent secondary or post-secondary school.

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(4) Review and Determination of Request

- a. The Director of Human Resources will review all documentation, the employee's prior disability-related services and other pertinent information to determine appropriate accommodation. The Director may also consult confidentially with the person(s) assessing the employee's disability and those College officials who the Director deems necessary.
- b. If the Director finds the employee eligible for accommodations, the Director will discuss their findings with the employee during a formal consultation.
- c. If the Director finds the employee ineligible for accommodations, or if a requested accommodation is denied the employee will be notified through a formal consultation. The employee may then choose to appeal the Director's decision.

(5) Accommodation Appeal Procedures

- a. If an employee's request for an accommodation is denied by the Director of Human Resources, the employee is afforded the right to appeal.
- b. An employee must submit an Accommodations Appeal Form to the Associate Dean of Students/Section 504 Coordinator within five business days of the denial.
- c. The Associate Dean of Students/Section 504 Coordinator will respond to the appeal within five business days with a decision.

(6) General Grievance Procedures

- a. Terra State Community College encourages those who have experienced any form of disability discrimination, harassment or retaliation should report the incident as soon as possible after the incident(s) in order to be most effectively investigated. All reports and complaints of discrimination will be promptly investigated and appropriate action will be taken as expeditiously as possible.
- b. The College will make reasonable efforts to protect the rights of both the complainant and the respondent. The College will respect the privacy of the complainant, the individual(s) against whom the complaint is filed, and the witness(es) in a manner consistent with the College's legal obligations to investigate, to take appropriate action, and to comply with any discovery or disclosure obligations by required law.

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- c. The College reserves the right to investigate and resolve a complaint or report of discrimination regardless of whether the complainant ultimately desires the College to pursue the complaint. In such cases, parties shall be informed of the status of the investigation at reasonable times until the College's final disposition of the investigation.
- d. Anonymous complaints will be accepted; however, Terra State Community College's ability to obtain additional information may be compromised and the ability to investigate or resolve anonymous complaints may be limited.
- e. When a complaint is received, the College will take appropriate corrective action in an expeditious manner. Any investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstance(s). When meeting with the investigator, information will be provided about the policy on equal opportunity and the complaint process.
- f. When the investigation is completed, the College will, to the extent appropriate, inform the person filing the complaint and the person alleged to have committed the conduct of the results of the investigation. If it determined that inappropriate conduct has occurred, the College will act promptly to eliminate the offending conduct and where it is appropriate, to impose disciplinary action through appropriate due process procedures.
- g. Intentionally making a false complaint or report of discrimination is a violation of this policy, and constitutes misconduct subject to disciplinary action, and may also be a crime.
- h. In addition to the above options, if you believe you have been subjected to discrimination, you may file a formal complaint with any or all of the government agencies set forth below. Using the College's complaint process does not prohibit you from filing a complaint with these agencies.

**1. THE UNITED STATES EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION**

Detroit Field Office

Patrick V. McNamara Building, 477 Michigan Avenue, Room 865,
Detroit, MI 48226

1-800-669-4000

2. OHIO CIVIL RIGHTS COMMISSION

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Toledo Office

1 Government Center, Room 936, Toledo, OH 43604

(419)-245-2900

3. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS

Cleveland Office

600 Superior Avenue East, Suite 750, Cleveland, OH 44114

(316)-522-4970

(7) Investigative Procedure

- a. A complainant may initiate the investigative procedure by filing a complaint with the Section 504 Coordinator describing the details of the alleged harassment or discrimination. Upon receipt of such a complaint, the Section 504 Coordinator will promptly conduct an investigation to determine whether the complaint can be substantiated, and, if so, whether it can be effectively remediated or resolved by the Coordinator. If necessary, the Coordinator will take appropriate temporary measures to address the complaint pending further investigation.
- b. An investigation may include any of the following: interviews of the parties involved, including witnesses, and the gathering of other relevant information. Both the respondent and complainant may present witnesses and other evidence.
- c. At any time during the investigation, the investigator may recommend that interim protections or remedies for the parties involved or witnesses be provided by appropriate College officials. These protections or remedies may include separating the parties, placing limitations on contact between parties, suspension, or making alternative workplace or student housing arrangements. Failure to comply with the terms of interim protections may be considered a separate violation.
- d. If the investigation determines the claim is likely to be substantiated, and if the respondent is a student, the formal process will utilize the Student Discipline Committee, the hearing process outlined in Article G of the Student Code of Conduct.
- e. If the investigation determines the claim is likely to be substantiated, and the respondent is an employee, the Corrective Action policy will apply.
- f. In most circumstances, the investigative process shall be completed within 60 days of the initial written complaint.

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(8) Confidentiality

- a. All College employees, excluding licensed professionals from the College Counseling Center, must report discrimination. Therefore, individuals who wish to discuss a situation in complete should work with an individual from the Counseling Center. Because the content of discussions with confidential resources is not reported to an office of record, such discussions do not serve as notice to the College to address the alleged discrimination.
- b. All inquiries, complaints, and investigations are treated with discretion. Information is kept confidential as law and College policy permit. However, the identity of the complainant is usually revealed to the person(s) accused of such conduct. Participants in the investigative process are asked to keep any information they have or may learn as confidential as practicable.
- c. The College shall protect the privacy of individuals involved in a report of discrimination to the extent allowed by law and College policy. Confidentiality is an aspiration but is not always possible or appropriate. Confidentiality needs to be balanced with the legal obligation of the College to ensure a working and learning environment that is free from discrimination and the due process rights of the respondent to be informed of allegations and their source. Therefore, some level of disclosure may be necessary to ensure a complete and fair investigation.

(9) Special Provisions

- a. Attempted violations - The College may treat attempts to commit any of the violations listed in this policy as if those attempts had been completed.
- b. The College as complainant – As necessary, the College reserves the right to initiate a conduct complaint, to serve as the complainant, and to initiate conduct proceedings without a formal complaint by the alleged victim or complainant.
- c. Third Party violations – Discriminatory conduct by third parties, who are not themselves employees or students at the College (e.g., a visiting speaker or members of a visiting athletic team), may also be of a sufficiently serious nature to deny or limit a student's ability to participate in or benefit from the education program. As such, if the College knows or should know of the harassment, the College is responsible for taking prompt and effective action to eliminate the hostile environment and prevent its recurrence.

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1. The type of appropriate steps taken by the College will differ depending on the level of control the College has over the third party. For example, if athletes from a visiting team harass the home college's students, the home college may not be able to discipline the athletes. However, it could encourage the other school to take appropriate action to prevent further incidents or choose not to invite the other school back.
2. Third party visitors to campus may also be the subject of discrimination and are entitled to utilize the processes and procedures outlined in this policy.

Updated:

Next Review: June 30, 2014