# CALIFORNIA STATE UNIVERSITY CHANNEL ISLANDS

## PROCEDURE FOR DISCRIMINATION AND HARASSMENT COMPLAINTS FROM APPLICANTS AND INDEPENDENT CONTRACTORS

### I. PURPOSE

The California State University (CSU) is committed to maintaining a work environment where every student, employee, applicant, visitor, and independent contractor is treated with dignity and respect. CSU Executive Order 883 prohibits unlawful discrimination against any person, including applicants and persons providing services pursuant to a contract, because of race, color, religion, national origin, ancestry, age, sex, sexual orientation, marital status, veteran status, physical disability, and medical condition. Similarly, CSU Executive Order 927 prohibits unlawful harassment of any employee, applicant or a person providing services pursuant to a contract on that same basis and also protects these individuals from retaliation for reporting conduct reasonably believed to be harassing or participating in a related investigation.

In compliance with CSU Executive Order 928, this procedure is designed to ensure equitable and prompt response to allegations of discrimination, harassment, or retaliation from an applicant, and allegations of harassment or retaliation from an independent contractor.

### II. APPLICATION

This procedure applies to applicants for employment at California State University Channel Islands and to independent contractors, as defined in Section III.

### III. DEFINITIONS

A. Applicant – refers to an individual who has completed the application process for a specific available position (either a non-faculty or faculty position) at California State University Channel Islands.

B. Independent Contractor – refers to a "person providing services pursuant to a contract" as defined by the California Fair Employment and Housing Act. A person "providing services pursuant to a contract" is a person who meets all of the following criteria:

   1. The person has the right to control the performance of the contract for services and discretion as to the manner of performance.

   2. The person is customarily engaged in an independently established business.

   3. The person has control over the time and place the work is performed, supplies the tools and instruments used in the work, and performs work that requires a particular skill not ordinarily used in the course of the employer's work.

C. Complainant – refers to an applicant or independent contractor who has filed a

formal complaint under this procedure.

D. Investigator – refers to the Management Personnel Plan (MPP) employee or external consultant assigned to investigate a complaint of discrimination or harassment.

## IV. CAMPUS ADMINISTRATORS RESPONSIBLE FOR RESPONDING TO ALLEGATIONS OF DISCRIMINATION/HARASSMENT

Non-employee applicants or independent contractors who believe they have experienced discrimination or harassment may file a complaint with Human Resources Programs located in Solano Hall Room 1123 or by contacting the Director of Human Resources Employee Relations located in Solano Hall Room 1152.

## V. INFORMAL LEVEL

The individual with a potential complaint may seek the advice and counsel of the designated campus administrator(s) listed in Section IV to determine the nature of any claim of discriminatory practices and/or harassment and to explore a resolution of the claim. Whenever possible, the campus administrator will attempt to resolve the claim at the informal level. A resolution at the informal level will be documented.

## VI. FORMAL LEVEL

The individual with a potential complaint may choose to file a written complaint with the designated campus administrator(s) listed in Section IV of this procedure. The complaint should be filed no later than twenty (20) working days after the event giving rise to the claim or no later than twenty (20) working days after the claimant knew or reasonably should have known of the event giving rise to the claim.

Applicants and independent contractors also have the right to file a complaint of harassment directly with the California Department of Fair Employment and Housing (DFEH).

After reviewing the complaint, the designated campus administrator will determine, in consultation with the appropriate Division Vice President or other administrator, which MPP or consultant will be assigned to conduct an investigation.

The person who conducts an investigation under this procedure may be one of the campus administrators identified in Section IV, or another MPP employee, or external consultant, designated by the Director of Human Resources Employment Practices, who is not within the administrative control or authority of the person alleged to have discriminated or harassed the complainant. Investigations will be conducted in a timely and impartial manner.

The complainant and individual assigned to investigate the complaint (investigator) should meet as soon as possible, but no later than fourteen (14) working days after receiving the complaint. The investigator will discuss the complaint with the complainant and record all appropriate information.

The investigation will include, at a minimum, interviews with the claimant/complainant and the person alleged to have discriminated or harassed (i.e., the respondent). The investigator will discuss the matter with any witnesses he/she deems relevant to the investigation.

The designated campus administrator will respond to the complainant no later than sixty (60) working days after the initial meeting with the complainant, unless an extension of the timeline has been obtained, to convey the outcome of the university's investigation.

## VII. APPEAL

The complainant may file a written appeal with the Director of Human Resources Employment Practices or the appropriate Division Vice President, when the investigation is conducted by the Director of Human Resources Employment Practices, within ten (10) working days after receipt of the decision from the designated campus administrator, if not satisfied with the outcome of the complaint process. The appeal will outline the basis upon which the complainant believes the appeal should be granted.

The Director of Human Resources Employment Practices, or other assigned administrator, will acknowledge receipt of the appeal within ten (10) working days. The Director of Human Resources Employment Practices, or other assigned administrator, will provide a written decision to the complainant within thirty (30) working days. This will be the final university decision.

The complainant will be reminded of his/her right to file a complaint with the California Department of Fair Employment and Housing (DFEH).

## VIII. General Provisions

Time limits refer to working days, which are Monday through Friday, excluding all university holidays or closure of the CSU Channel Islands' campus. If the claimant/complainant, respondent, witnesses, campus investigator, or designated campus administrator is on an approved leave of three (3) days or more, the time limits will be extended by the length of time the individual is absent.

Time limits may also be extended by mutual agreement.

The designated campus administrator will consult with the Director of Human Resources Employment Practices, the appropriate Vice President, the Dean/Director of the department in which the complaint arose, and legal counsel, as appropriate, to determine whether any corrective action is recommended.

At the end of the investigation, a confidential file of all documentation will be maintained in the appropriate campus office.