

Central New Mexico Community College complaint procedure for discrimination on the basis of disability.

I. Scope

This procedure applies to all Central New Mexico Community College (CNM) students.

II. Policy Statement

In accordance with the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act of 1973 and other applicable law, CNM takes appropriate action to ensure that its programs and services are readily accessible to qualified individuals with disabilities. No qualified individual with a disability shall, on the basis of the disability, be excluded from participation in, be denied the benefit of, or otherwise be subjected to discrimination related to any of the institution's programs or activities.

This procedure assists the college in carrying out its responsibilities in administering and enforcing applicable federal and state laws and university policies related to nondiscrimination on the basis of disability and investigation of complaints. Any student who feels he or she is the victim of discrimination on the basis of disability, should follow the complaint procedures outlined below. The college reserves the right to investigate any allegation of discrimination based on disability.

Retaliation. CNM also investigates and resolves allegations of retaliation against individuals who have raised claims of discrimination based on disability or who have cooperated in an investigative process in some manner. Retaliation is an adverse action taken against an individual as a result of a complaint being filed or after the individual has cooperated with an investigative process. Retaliation is prohibited whether or not the charged party prevails in the original allegation of disability discrimination. No agent, employee or student of the college may harass, coerce, intimidate, or discriminate against an individual who has filed a complaint or participated in a complaint resolution process. Charges of retaliation will be treated as separate and distinct from the original charges and allegations, and will be investigated by the college.

III. Filing Process

Complaints must be filed with the Dean of Students Office. Complainants will be asked to complete a form describing the alleged discrimination. Assistance will be arranged, if needed.

A complaint should be filed within 180 calendar days of the most recent incident of discrimination. CNM will consider requests to extend this period where the complainant can show he or she needed additional time due to circumstances beyond his or her control.

The complainant will meet with a representative from the Dean of Students Office to discuss options (informal, formal) for proceeding with resolution of the complaint. The complainant is not required to follow the informal procedure before filing a formal complaint. The respondent (the individual accused of discrimination) will be notified of the complaint within 10 working days after it is filed.

Options

Informal. The Dean of Students may offer the complainant the opportunity to voluntarily discuss allegations and concerns with the respondent (the accused) and attempt to resolve the situation. The complainant is not required to do this to move forward with a formal complaint. The respondent is reminded that CNM expects all to adhere to our ADA policies. Respondent is put on notice that behavior has been questioned, and informal resolution sought, if possible. If informal attempts to resolve the situation are not successful, the complainant may pursue a formal complaint. The Dean of Students Office reserves the right to investigate any allegation brought forward if it finds sufficient information to indicate a serious or continuing violation of the ADA/Sec. 504 policy.

Witnesses or other evidence may be presented to the Dean of Students by the complainant or respondent.

Formal. If the complainant elects to file a formal complaint, a full investigation is conducted by the Dean of Students Office complete with written findings to be given to the complainant and the respondent. If a violation is found, the Dean of Students Office will recommend corrective actions. These *may* include a directive to stop any ongoing discrimination or retaliation; disciplinary or other corrective action against the respondent or

others; relief for the complainant to remedy the effects of the discrimination or retaliation; and any other action considered necessary to ensure that the discrimination will not be repeated.

Appeal. The findings of a formal complaint investigation may be appealed in writing to the Director of Human Resources by the complainant or respondent within 10 working days of receipt of the Dean of Students' determination. A party may appeal a decision based on discovery of new evidence previously unavailable or a significant irregularity in the procedural process which could affect the outcome of finding. The appellant should be as specific as possible in setting out the basis for appeal; general dissatisfaction with the decision will not be sufficient. The determination of the Director of Human Resources is final.

At any time, prior to filing a complaint, or while a complaint proceeding is in progress, a complainant may file their complaint with an appropriate external agency. A complete list of agencies, along with contact information, is available from the Human Resources Office, 525 Buena Vista SE, Albuquerque, NM 87106. Phone 505-224-4600.

Time Line for Investigation Process

The Dean of Students Office will complete its investigations as expeditiously as possible. The investigation shall normally be completed within 45 working days from the filing of a formal complaint, including written notification of the parties of the outcome of the investigation. In extraordinary circumstances, the Dean of Students Office may extend this time for a reasonable period. All parties will be notified if such an extension is necessary. Many factors can interfere with an investigative fact-finder's commitment to complete a determination promptly, including unavailability of witnesses or the complexity of the issues involved. The Dean of Students Office will maintain contact with the Complainant and Respondent throughout the course of the investigation to keep them up to date on the process.

IV. Confidentiality

The Dean of Students Office takes any allegation of discrimination, harassment, and/or retaliation seriously and is committed to protecting the integrity of the investigation process including confidentiality and the due process rights of all individuals. Note that all those involved (the respondent,

the complainant, and the witnesses) have privacy interests. Therefore, outside the scope of the investigation, all parties are cautioned not to publicize or divulge the nature of the proceedings, or the identity of those involved.

V. Right to Advisor

The complainant and the respondent each have the right to bring an advisor to any investigative meeting. If either party chooses to exercise this option, he or she shall submit the name of the advisor in writing to the Dean of Students Office at least 72 hours prior to a meeting. If either the complainant or the respondent's advisor is a person degreed or qualified in law, the Dean of Students Office must be notified by the investigator.

VI. Responsibilities and Jurisdiction of the Dean of Students Office

Consistent with federal and state laws and university policies related to nondiscrimination, the Dean of Students Office investigates complaints of unlawful discrimination and/or harassment on the basis of physical or mental disability. The Dean of Students Office will make an adequate, reliable and impartial investigation of such complaints at CNM and render a written determination following such investigations.

Transfer of Function

If a complaint, whether informal or formal, is directed against the Dean of Students Office, the functions assigned to that Office by these procedures will transfer to the Human Resources Department. If a complaint, whether informal or formal, is directed against the Human Resources Department, the functions assigned to the Department by these procedures will transfer to the Office of the President or the President's designee.

6/11/2008