Kutztown University Policy DIV-008

Anti-Discrimination Policy and Procedures

Kutztown University is committed to creating an environment free of unlawful discrimination for all its employees and students. Accordingly, acts of discrimination based on an individual's gender, race, ethnicity, national origin, age, disability, religion, sexual orientation, gender identity or veteran status is prohibited.

Discrimination as a result of belonging to a protected class may constitute a violation of Title VII of the U.S. Civil Rights Act of 1964, a violation of Title IX of the Education Amendments of 1972, a violation of the Pennsylvania Human Relations Act, other applicable federal and state laws/regulations, and/or university policy.

Discrimination by an administrator, faculty member, staff or student will not be tolerated. The University will actively and expeditiously investigate any allegation of discrimination, and if it is determined that discrimination has occurred, the University will take appropriate disciplinary action. An employee found to have engaged in misconduct constituting discrimination will be disciplined. Disciplinary actions could include: verbal warning, written reprimand, a requirement to attend counseling or training, suspension, or dismissal. A student found to have engaged in misconduct constituting discrimination will be disciplined, which may include dismissal from the university. Further, if a Kutztown University employee or student is discriminated against by an off-campus vendor, the aggrieved party is encouraged to report the misconduct to the Office of Social Equity.

Complainant: The person who is alleging the occurrence of discrimination.

Respondent: The person whose actions are alleged to have violated the anti-discrimination policy.

A. CONFIDENTIALITY

In the interest of maintaining confidentiality, only parties to the complaint (i.e. complainant, respondent, witnesses, etc.) will participate in the investigation. Details of the complaint, as well as the names of the individuals connected to the investigation, will be disclosed only if necessary to protect the rights of any party involved or as otherwise required by law or collective bargaining agreement.

B. DEFINITION OF DISCRIMINATION

An adverse employment or education related action or decision that is based on or motivated by an individual's race, color, religion, ethnicity, national origin, gender, age, disability, sexual orientation, gender identity or veteran status.

C. RESPONSIBILITIES

Each dean, department chairperson, and/or administrative supervisor is responsible within his/her respective area for the implementation, dissemination, and explanation of this policy. Assistance in accomplishing these tasks may be obtained by contacting the Office of Social Equity. It is the obligation of each student, faculty member, and staff member to adhere to this policy.

This policy applies to all employees and applicants for employment, students, and individuals who have a contractual relationship with Kutztown University, including, but not limited to, vendors and contractors.

D. FALSE COMPLAINTS

Any person who knowingly files a false complaint of discrimination may be subject to disciplinary action, including dismissal from the university.

E. THE UNIVERSITY PROCEDURE

STEP 1: All charges of discrimination should be referred to the Office of Social Equity.

In order to ensure the effective handling of all incidents of discrimination, this policy requires that all such reports be directed to the same office on campus, namely the Office of Social Equity. At this first stage of the procedure, the individual or individuals who alert(s) the Office of Social Equity of a possible discrimination incident might not be the actual aggrieved party. Both the complainant and the respondent may be accompanied by an advisor, who is a member of the campus community, when meeting with Office of Social Equity staff.

A potentially aggrieved party may bring a complaint of discrimination to a supervisor, department chair or dean, who, in turn, shall refer the complainant to the Office of Social Equity.

In the event there are two or more complainants and/or two or more persons (respondents) charged with discrimination in the same set of circumstances, the Director of Social Equity or his/her designee within the Office of Social Equity, will decide whether the complaint will be handled jointly or separately. For purposes of this document, the phrases "the complainant" and/or "the respondent" may be plural.

The role of the Director of Social Equity, or his/her designee within the Office of Social Equity, in this procedure is to serve as a fact finder. The Director of Social Equity, or his/her designee within the Office of Social Equity, must act in such a manner as to ensure that all parties to a discrimination complaint are protected by appropriate due process and confidentiality. Should the Director of Social Equity be accused of discrimination, the Provost will act in his/her place. Should the University President be accused of discrimination, the matter will be referred to the Pennsylvania State System of Higher Education, Office of the Chancellor.

STEP 2: The complainant meets with a representative from the Office of Social Equity.

The purpose of this meeting is to discuss the complaint and to gather information. At this initial meeting, the Director of Social Equity, or his/her designee within the Office of Social Equity, clarifies for the complainant whether or not the allegations may constitute discrimination. The Director of Social Equity, or his/her designee within the Office of Social Equity, then reviews the appropriate complaint procedure for the benefit of the complainant. Complainants are not required to file a written discrimination complaint.

STEP 3: The complainant will receive additional clarification regarding university procedures regarding the alleged discrimination and general information regarding counseling.

If requested by the complainant, the Director of Social Equity, or his/her designee within the Office of Social Equity, will provide general guidance for the complainant in order to:

(a) clarify the nature of the alleged discrimination.
(b) review the university's complaint procedure.
(c) review the complainant's responsibilities of filing a written or oral complaint.
(d) give guidelines for what a written complaint should contain, in the event the complainant chooses to file his/her complaint in writing.
(e) apprise the complainant of counseling services offered through the KU Department of Counseling and Psychological Services for a student complainant or the State Employee's Assistance Program for an employee complainant.

STEP 4: The complainant files a complaint.

A complainant may file a complaint either orally or in writing.

In the event that a complainant does not wish to file a signed complaint him or herself, the Director of Social Equity, or his/her designee within the Office of Social Equity, will prepare a written statement with the following information: the names of the complainant and the respondent, a short description of the alleged violation as stated by the complainant, and the date(s) of the alleged discrimination. Whether the complainant submits a written complaint or the Office of Social Equity prepares a written statement, the allegations will be investigated.

STEP 5: The Director of Social Equity must decide on an appropriate course of action regarding the complaint.

There are two possible courses of action following the filing of a complaint:

A) Based on the complainant's written or spoken account of alleged discrimination, the Director of Social Equity, or his/her designee within the Office of Social Equity, determines there is insufficient reason to proceed with a complaint and counsels the complainant regarding this decision. In this case, the investigation would stop at this point and the complainant would be notified of the decision of the Office of Social Equity.

B) Based on the complainant's account of alleged discrimination and a finding of sufficient reason to proceed, the Director of Social Equity, or his/her designee within the Office of Social Equity, will promptly initiate an impartial fact-finding investigation of the reported discrimination.

STEP 6: The respondent is notified of the complaint.

Absent unusual circumstances, within 14 calendar days of a complaint being filed, the Office of Social Equity will notify the respondent that a complaint of discrimination has been filed against him/her. Depending on the circumstances, the respondent will be notified either orally or in writing. If the notification is in writing, for reasons of confidentiality, the notification will be mailed to the respondent's home address, unless the respondent is a student who resides on campus. Furthermore, if the notification is in writing, it will be sent by certified mail so that only the respondent can sign for it personally.

STEP 7: The Director of Social Equity meets with the respondent.

Absent unusual circumstances, within 14 calendar days of having received notification of the complaint, the respondent must meet with the Director of Social Equity, or his/her designee within the Office of Social Equity, to discuss the complaint. The respondent will be given the opportunity to respond to the allegations and provide any and all defenses, as well as the names of any witnesses and/or documentation in his/her defense.

The University will take every precaution to protect the complainant and any witnesses from retaliatory action by the respondent. In fact, the respondent will be informed he/she is not to retaliate against the complainant in any way nor against any other person connected to the complaint as that action may result in a separate disciplinary action. Further, the respondent will be informed he/she is not to communicate directly with the complainant regarding the claim of discrimination as this may be perceived as an attempt to discourage the complainant from pursuing the complaint. The Office of Social Equity will attempt to resolve the complaint

informally. If the complaint is not resolved informally, a formal investigative process will follow.

STEP 8: The Office of Social Equity seeks to resolve the complaint and/or to mediate a solution.

The Director of Social Equity, or his/her designee within the Office of Social Equity, may choose to meet with the complainant, absent unusual circumstances, within 7 days of having met with the respondent. Upon meeting with the respondent and the complainant, the Director of Social Equity, or his/her designee within the Office of Social Equity, will seek to resolve the complaint. One of two outcomes is possible:

(a) The Director of Social Equity, or his/her designee within the Office of Social Equity, is satisfied the respondent will make appropriate changes in his/her behavior. The Director of Social Equity, or his/her designee within the Office of Social Equity, meets with the respondent to counsel the respondent about resolution of the complaint. A record of the resolution would be signed by the respondent and would be kept in the Office of Social Equity for three years. The Office of Social Equity will inform the complainant the matter has been resolved, without providing detailed information about the resolution.

(b) A mediated solution could be achieved which is satisfactory to the complainant and the respondent. A record of the resolution would be kept in the Office of Social Equity for three years.

STEP 9: Action by the University President and Final Disposition of the Complaint.

If the complaint cannot be resolved as set forth in Step 8, the Director of Social Equity, or his/her designee, will continue the investigation to its conclusion. A report containing any and all factual findings will be submitted to the University President or his/her designee. Upon receiving the report, the President or his/her designee, will decide what action will be taken, including, but not limited to, the dismissal of the complaint or the imposition of discipline. The decision of the President or his/her designee shall be final.

All records of the formal process, including the decision of the President or his/her designee, will be kept in the Office of Social Equity for three years. In the event of an adverse ruling against the respondent, a copy of the decision of the President or his/her designee, shall be placed in the respondent's personnel file. The complainant will receive a letter from the Director of Social Equity stating there has been a resolution of the complaint, without providing specific details regarding the resolution.

F. TRAINING

Employee training as to the contents of this policy shall occur yearly. Additionally, Kutztown University employees are required to participate in this training within thirty (30) days of hiring and at least every year thereafter.

A current copy of this policy will be posted on the Office of Social Equity webpage. Hard copies of this policy may be obtained from the Office of Social Equity.

G. EFFECTIVE DATE

June 17, 2010

H. APPROVED BY

Council of Trustees, June 17, 2010

I. LAST REVIEW

August 2011
August 2012
June 2013
July 2014