



Guidelines/Procedures

SUBJECT: Prohibition of Discrimination or Harassment of Students on the Basis of Disability and/or Race, Color, or National Origin

Guideline/Procedure for AR#: [6.02.002](#)

Date Effective: 06/7/2013; amended 03/24/20, 11/06/20

Purpose

This is the College's grievance procedure for complaints about discrimination or harassment on the basis of a disability, or race, color, or national origin, as mandated under the Americans with Disabilities Act of 1990 as amended, and the ADA Amendments Act of 2008 (ADAAA) and Section 504 of the Rehabilitation Act and Title VI of the Civil Rights Act of 1964.

Section 504 and the ADAAA provide that no otherwise qualified individual with a disability shall, solely by reason of his or her disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance. ACC prohibits discrimination against or harassment of qualified students with disabilities on the basis of disability in connection with all academic, educational, extra-curricular, and other programs of the College, whether they take place in the facilities of the College, at a class or training program sponsored by the College at another location, or elsewhere. Under the ADAAA, no governmental entity may discriminate against or permit discrimination against an otherwise qualified individual on the basis of the person's disability.

Section 504 of the Rehabilitation Act of 1973, as amended also provides that no otherwise qualified individual with a disability shall, solely by reason of his or her disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance. Harassment is considered under these laws to be a form of discrimination.

Title VI of the Civil Rights Act of 1964 provides that no person shall, on the basis of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance. Harassment is considered under this law as well to be a form of discrimination.

Chancellor:  _____ Date: 11/13/20

Prohibition of Discrimination or Harassment of Students on the Basis of Disability, Race, Color or National Origin**6.02.002**

ACC prohibits discrimination against or harassment of students¹ on the basis of disability and/or race, color, or national origin in connection with all academic, educational, extra-curricular, and other programs of the College, whether they take place in the facilities of the College, at a class or training program sponsored by the College at another location, or elsewhere. These procedures apply whether the alleged harasser is an ACC employee, a fellow student, a visitor to the College, or a vendor of the College.

This complaint resolution procedure applies to all complaints by students with qualifying disabilities who believe they have been the object of discrimination or harassment on the basis of such disability, and all students who believe they have been the object of discrimination or harassment on the basis of race, color or national origin.

The College's Office of Compliance is responsible for reviewing and responding to student complaints related to discrimination outlined in this Rule. All complaints of alleged harassment or discrimination against students will be promptly investigated under the oversight of the Director, Compliance Office, in the College's Office of Compliance. ACC prohibits retaliation against anyone for reporting discriminating or harassing behavior or for participating in discrimination or harassment investigations or lawsuits.

Procedures**Investigation Process & Resolution**

Every student and every person against whom a complaint is made is entitled to due process. Therefore, the College's investigation will include interviews with all relevant persons including the complainant², the respondent (an individual whom a complaint is filed against) and other potential witnesses. The results of the investigation will determine the appropriate course of action. ACC will take steps to prevent recurrence of any harassment and to correct its discriminatory effects on the complainant and others, if appropriate.

Student Discrimination/Harassment Complaint Procedures

1. Students who believe they have been the subject of or who have observed discrimination or harassment, have the right to make a complaint with the Director, Compliance Office, identified below.

Charlene Buckley
Director, Compliance Office
Highland Business Center
5930 Middle Fiskville Road

¹ Dual credit students are subject to this Rule and its corresponding Guideline/Procedure. For purposes of this Rule a student is someone who is not currently enrolled but is registered for classes in the future, was previously enrolled and is able to enroll in the future, or withdraws any time after notification of the allegation. Students who also serve in the capacity of an employee of the College will be subject to the procedures determined by the Director, Compliance Office, to be most appropriate.

² In the case of dual credit or early college high school students, a Third Party may serve as the complainant when reporting on behalf of minor students.

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Austin, Texas 78752

512-223-7964

compliance@austincc.edu or charlene.buckley@austincc.edu

Written complaints must be brought within 180 calendar days of the last incident of discrimination or harassment. A complaint may be submitted to the Director, Compliance Office, and should include dates, times, places, witnesses, and specifics of what was said and done. The complaint may also include proposed resolutions acceptable to the student.

At the time of filing a written complaint, the student will also be informed of his or her right to file a complaint with the United States Department of Education Office for Civil Rights.

2. The Director, Compliance Office will coordinate with the appropriate supervisor or Dean and will review the complaint. If the situation alleged cannot be resolved through informal means, an investigator will be appointed. An investigator will not be assigned if the complaint does not allege any action prohibited by Section 504 or Title II of the ADA, or by Title VI. Such complaints will be dismissed from this complaint process and administratively addressed through informal measures. If more information is needed in order to complete the initial assessment of the complaint, the Director, Compliance Office will notify the complainant and ask for the necessary additional information.
3. All complaints will be promptly reviewed and responded to in accordance with the procedures outlined in this Rule. Based upon the initial assessment of the allegations by the Director, Compliance Office and the appropriate supervisor or Dean, when applicable, interim measures may be temporarily taken to ensure the alleged discriminatory or harassing conduct ceases while the investigation is conducted. Such interim measures may end upon final resolution of the complaint or may continue as part of the complaint resolution following completion of the investigation. All complaints will be confidential to the extent permitted by law, and will be revealed only on a “need to know” basis (i.e. access to the information is necessary to the investigation and/or the safety of the accused and the accuser or required by law).
4. Upon assignment of an investigator by the Director, Compliance Office, the investigator will review the written material submitted by the student and interview the student to discuss the complaint as soon as possible but not later than ten (10) College business³ days after the complaint has been received. The investigator will also interview the respondent and any relevant witnesses identified by the complainant or the respondent. The investigator may consult with the appropriate supervisor or Dean to identify alternative methods for resolving the complaint.
5. The investigator will interview all persons with information relevant to the complaint as identified by the parties, or upon the investigator’s own determination that a particular person(s) has relevant information.

³ College business days are Monday through Friday, except when the College is closed on dates noted in the Academic calendar for holidays and breaks, or due to weather related closure if closed for a full business day.

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6. If the complaint is filed against an individual, the respondent should be given at least three (3) College business days to review the complaint and any relevant supporting documents and to prepare a written response to the complaint prior to being interviewed by the investigator. At the interview, the investigator should provide the respondent an opportunity to respond verbally to the complaint. The respondent may also submit the written response to the complaint. The respondent may identify additional witnesses or persons with knowledge of relevant facts that the investigator should interview. The investigator will determine from this meeting whether additional witness interviews are warranted and if any additional information needs to be gathered or considered.
7. After meeting with relevant parties to the investigation, gathering any additional information or witness statements, and concluding the investigation, the investigator will make a recommendation, in writing to the Director, Compliance Office and the appropriate supervisor or Dean.
8. The recommendation will set forth the following: complaint, persons interviewed, documents reviewed, findings, conclusions, and recommendations. The investigation of the complaint should be concluded within sixty (60) College business days of the receipt of the complaint.
9. If additional time is needed to complete the investigation, the investigator will notify the complainant and respondent. In any event, the investigation is considered “open” until the written final action document is issued.
10. The supervisor or Dean, in consultation with the Director, Compliance Office will determine the final action to be taken in response to the complaint. The Director, Compliance Office, will notify both the complainant and the respondent of the outcome of the investigation, consistent with FERPA.

Appeals

The respondent may appeal the outcome of an investigation. Appeals are not heard in person; instead appeals are resolved through submission of written documents.

A request for appeal must be submitted in writing within five (5) College business days from the date on the letter notifying the respondent of the finding. In cases where the respondent is an employee, the Executive Vice President, Finance & Administration, will hear the appeal. In cases where the respondent is a student, the Provost/Executive Vice President, Academic Affairs, will hear the appeal.

Appeals shall be granted only on one or more of the following grounds:

1. If there was a specified procedural error (or errors) in the interpretation of the College regulations that were so substantial as to effectively deny the party appealing a fair investigation or resolution process;
2. If new and significant evidence has become available which could not have been discovered by a properly diligent person during the original investigation; or

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3. If the final action(s) is/are disproportionate to the offense for which the respondent was found responsible.

Disagreement with the outcome of the investigation does not in and of itself constitute grounds for appeal.

Failure to appeal within the allotted time will render the decision final.

The appellate review and decision will be based on the written complaint and documentation contained in the investigative record. The appropriate Executive Vice President will render a decision and may issue recommendations if necessary.

The Executive Vice President may consult with the case investigator regarding fact-based questions about the content of the investigation if necessary, based on the nature of the appeal.

The appeal should be resolved within ten (10) College business days of the date the appeal was filed. The decision is final and is not appealable any further within ACC.

Decisions regarding employee terminations will be made in accordance with requisite Board Policy and Administrative Rules.