



## Ohio Administrative Code

### Rule 3358:16-101-01 Equal Education Opportunity Policy.

Effective: May 3, 2015

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#### (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 Revised Code.

#### (B) Notice against discrimination

Terra state community college is committed to providing equal educational opportunity. Discrimination in any form will not be tolerated within the Terra state community college community. All members of the faculty, staff, administration, student body, volunteers, and visitors to the campus have the right to be pursue their careers or studies free from discrimination. The groups mentioned in this policy are expected to conduct themselves in a manner that does not infringe upon the rights of others. This policy has been developed to reaffirm these principles and to provide recourse for those individuals whose rights have been violated. This policy has dual purposes. It serves as a measure for the college to determine, after the fact, if behaviors have violated policy. It also provides general guidelines for the expectations the college has for non-discriminatory behavior. Separate policies have been developed to specifically address sexual and disability discrimination.

#### (C) Filing a complaint

A person who believes they have been subject to discriminatory treatment is encouraged to report



these offenses to the Title IX coordinator, a deputy coordinator, or to their direct supervisor. Any person who receives a complaint of 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.

(E) Process:

(1) Investigators

The following individual(s) have been appointed by the president to handle inquiries regarding this policy:

Mr. Heath Martin, associate dean of students and Title IX coordinator. Terra state community college, 2830 Napoleon road, Fremont, OH 43420. Office location: SAC. Phone: (419) 559-2350. Email: hmartin01@terra.edu

Ms. Nanci Kosanka, director of human resources and deputy Title IX coordinator. Terra state community college, 2830 Napoleon road, Fremont, OH 43420. Office location: B205. Phone: (419) 559-2465. Email: nkosanka@terra.edu

Mr. Jack Fatica, vice president for academic affairs and deputy Title IX coordinator Terra state community college, 2830 Napoleon road, Fremont, OH 43420. Office location: B209. Phone: (419) 559-2381. Email: jfatica@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.
- (c) A person with a disability is any person who: (i) has a physical or mental impairment which substantially limits one or more of the such persons life activities; (ii) has a record of such impairment; (iii) is regarded as having such an impairment; or (iv) is otherwise deemed disabled under applicable federal or state law.
- (d) Gender identity and gender expression is respectively to the gender one self-identifies as, and the gender one expresses oneself as.
- (e) Genetic information is information about an individuals genetic tests and the genetic tests of an individuals family members, as well as, information about any disease, disorder, or condition of an individuals family members (i.e. an individuals family medical history). Family medical history is included in the definition of genetic information because it is often used to determine whether someone has an increased risk of getting a disease, disorder, or condition in the future.
- (f) Marital status is the legal status of being married, single, separated, divorced, or widowed. It does not include consideration of cohabitating relationships.
- (g) 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.
- (h) Sexual orientation is a persons sexual identity in relation to the gender or genders of people to whom the person is physically and/or emotionally attracted.
- (i) Veteran is a person who served at least one hundred eighty days in the active military, and who was discharged or released under conditions other than dishonorable, as specified in 38 U.S.C. 101(2). Active service includes full-time federal services in the national guard or a reserve component. The definition of active service does not include full-time duty performed strictly for training purposes (i.e., that which is referred to as weekend or annual training), nor does it include full-time active duty performed by national guard personnel who are mobilized by state rather than



federal authorities.

(3) General grievance procedures

(a) Terra state community college encourages those who have experienced any form of discrimination or retaliation to report the incident as soon as possible to allow for the most effective investigation. All 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 colleges legal obligations to investigate, to take appropriate action, and to comply with any discovery or disclosure obligations by required law.

(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 colleges final disposition of the investigation.

(d) Anonymous complaints will be accepted; however, Terra state community colleges 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 education 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 listed 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 as follows.

(i) 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

(ii) Ohio civil rights commission Toledo office 1 Government center, room 936, Toledo, OH 43604 (419)-245-2900

(iii) Department of education, office for civil rights Cleveland office 600 Superior avenue East, suite 750, Cleveland, OH 44114 (316)-522-4970

#### (4) Investigative procedure

(a) A complainant may initiate the investigative procedure by filing a complaint with the Title IX coordinator or a deputy coordinator describing the details of the alleged harassment or discrimination. Upon receipt of such a complaint, the Title IX coordinator or a deputy 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 or deputy coordinator. If necessary the coordinator or deputy 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 progressive action policy will apply.

(f) In most circumstances, the investigative process shall be completed within sixty days of the initial complaint.

#### (5) 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 confidence should work with an individual from the counseling center. Because 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 as 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 an investigative process are asked to keep any information they have or may learn of 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.

(6) 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 students 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.

(i) 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 colleges 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.

(ii) 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.