



State University of New York

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*Memo to All
sup: Personnel*

Discrimination

Memorandum to Presidents

VICE CHANCELLOR
FOR ACADEMIC POLICY

Date: January 25, 1977
From: Office of the Chancellor
Subject: Discrimination Grievance Procedure

Vol. 77 No. 2

Following extensive consultation with University groups and State agencies, State University of New York, in accordance with Title IX of the Education Amendments of 1972, is instituting an internal grievance procedure for the review of allegations of discrimination. This procedure may be used by any State University student or employee. As you'll see in the attached copy of the procedure, it is not intended to supplant or duplicate existing grievance procedures; nor does it deprive any complainant of the right to file with outside enforcement agencies.

This procedure will be evaluated quarterly and, at the end of the first year, either revised as needed or adopted as is on a permanent basis. The University's Affirmative Action Advisory Committee, Affirmative Action Office, and the Council of Presidents will be the evaluators. Quarterly reports will be requested from each campus, with evaluation forms to be provided by the SUNY-CA Affirmative Action Office.

Would you please begin to implement this important phase of the University's Affirmative Action Program immediately. Four training sessions are being arranged by a Central Staff team composed of representatives from the Offices of Legal Affairs, Employee Relations, and Affirmative Action. The places and dates are as follows: February 18, Syracuse; March 1, Buffalo; March 4, New York City; March 7, Albany. Each campus is asked to send a team consisting of the Affirmative Action Officer, Personnel Officer, Employee Relations Officer, a member of the Student Affairs staff, and the chairperson of the campus Affirmative Action Committee. Other personnel may be added as desired by each campus. Further information concerning the exact time and location of training sessions will be sent to you under separate cover from the Affirmative Action Office.

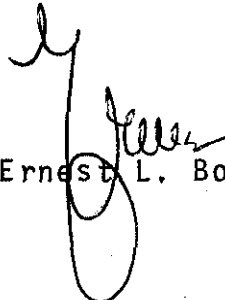
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Section 86.8(b) of Title IX calls on each recipient of federal funds to "adopt and publish grievance procedures providing for prompt and equitable resolution of student and employee complaints." It is important, therefore, to disseminate information about this grievance procedure so that all students and employees will be made aware of its existence and accessibility to them, either through existing campus communication channels, or special briefing sessions, or both.

I know I can count on your cooperation as State University continues its vigorous efforts to eliminate illegal discrimination from all aspects of campus life. If you have any questions, please call Dolores Barracano Schmidt, Assistant Vice Chancellor for Affirmative Action, 518-474-1091.

Thanks very much.


Ernest L. Boyer

Enclosure

This Memorandum addressed to:

Presidents, State-Operated Campuses

Copies for information only to:

Presidents, Community Colleges
Deans, Statutory Colleges
President Rose
Mrs. Cook
Campus Affirmative Action Officers

GRIEVANCE PROCEDURE FOR REVIEW
OF
ALLEGATIONS OF DISCRIMINATION
STATE UNIVERSITY OF NEW YORK

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for Affirmative Action
State University of New York
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Introduction:

The State University of New York, in its continuing effort to seek equity in education and employment and in support of federal and state anti-discrimination legislation, is adopting a grievance procedure for the prompt and equitable investigation and resolution of allegations of unlawful discrimination on the basis of race, color, national origin, religion, age, sex, disability or marital status.

This procedure, which may be used by any State University of New York student or employee, is in no way intended to supplant or duplicate any already existing grievance procedures, including the informal resolution process presently in practice on many campuses. Employee grievance procedures established through negotiated contracts, academic grievances review committees, student disciplinary grievance boards, and any other procedures defined by contract or local by-laws will continue to operate as before. Neither does this procedure in any way deprive a complainant of the right to file with outside enforcement agencies, such as the New York State Division of Human Rights, the Equal Employment Opportunity Commission, the Office for Civil Rights of the Department of Health, Education, and Welfare, or the Wages and Hours Division of the Department of Labor.

Rather, this SUNY Grievance Procedure for the Review of Allegations of Illegal Discrimination provides an additional mechanism through which the University may identify and eliminate incidents of illegal discrimination. The University recognizes

and accepts its responsibility in this regard and believes that the establishment of this internal, non-adversary grievance process will benefit students, faculty, staff, and administration alike, permitting investigation and resolution of problems without resort to the frequently expensive and time-consuming procedures of state and federal enforcement agencies or courts.

Requirements for Filing Grievances:

1. A grievance must be submitted in writing on forms provided by the State University of New York. (Sample enclosed.)
2. Employees must file a grievance within 45 calendar days following the alleged discriminatory act or the date on which the grievant first knew or reasonably should have known of such act if that date is later. Students must file a grievance within 45 calendar days following the alleged discriminatory act or 45 calendar days after a final grade is received, if that date is later.
3. Grievances must be filed with the campus Affirmative Action Officer.

Procedures for Processing Grievances:

1. The Affirmative Action Officer on each SUNY campus shall receive any complaint of alleged discrimination, shall assist the complainant in defining the charge, and shall provide the complainant with information about the various

internal and external mechanisms through which the complaint may be filed, including applicable time limits for filing with each agency.

2. If the complainant chooses to use the SUNY Grievance Procedure for the Review of Allegations of Illegal Discrimination, the Affirmative Action Officer shall assist the complainant to fill out the appropriate form, signing and dating a copy of the completed form for the complainant.

3. The Affirmative Action Officer shall seek to resolve the complaint informally and shall have the right to all relevant information and to interview witnesses, including the right to bring together complainant and respondent, if desirable. If a resolution satisfactory to both complainant and respondent is reached within 14 calendar days through the efforts of the Affirmative Action Officer, the Officer shall close the case, sending a written notice to that effect to the complainant and respondent. The written notice, a copy of which shall be attached to the original complaint form in the Officer's file, shall indicate the agreement reached by complainant and respondent and shall be signed and dated by the complainant, the respondent, and the Affirmative Action Officer.

4. If the Affirmative Action Officer is unable to resolve the complaint to the mutual satisfaction of the grievant and respondent within 14 calendar days, the Officer

shall so notify the grievant, advising grievant of his or her right to proceed to the next step internally or to file with appropriate enforcement agencies immediately.

5. If a formal complaint with a state or federal agency or a court action is filed by a grievant, any internal investigation or review under way on the same complaint will terminate without conclusion, except that if internal investigation is prolonged to the point that the statute of limitation for filing with outside agencies may be exceeded (180 days for EEOC and OCR complaints; 365 days for Division of Human Rights complaints), a charge may be filed with the appropriate agency without interruption of the internal procedure.

6. If the grievant chooses to proceed through the internal grievance procedure, the grievant shall notify the Affirmative Action Officer in writing within ten calendar days from the time of notification by the Affirmative Action Officer that the issue cannot be resolved informally.

7. The grievant's statement, together with a statement from the Affirmative Action Officer indicating that informal resolution was not possible, shall be forwarded to the Grievance Chairperson of the campus Affirmative Action Committee within five days. (Each campus Affirmative Action Committee shall select a Grievance Chairperson, who shall be someone other than the campus Affirmative Action Officer.)

8. Within seven calendar days of receipt, the Chairperson shall notify the grievant and the campus President that a

review of the matter shall take place by an ad hoc tripartite committee to be jointly selected by the grievant and the President from a pre-selected panel of campus administrators, faculty, employees and students recommended to the President by the Affirmative Action Committee to hear discrimination complaints. (It shall be the responsibility of the campus Affirmative Action Committee to establish such a panel each year.)

9. The ad hoc tripartite committee shall consist of one member of the pre-selected panel chosen by the President, one member chosen by the grievant, and a third, who shall chair the Committee, chosen by the two designees. Selection must be completed and written notification of designees submitted to the Chairperson of the Affirmative Action Committee within seven calendar days.

10. The tripartite committee shall review the matter, as appropriate, and shall have the right to all relevant information and to interview witnesses, including the right to bring together complainant and respondent, if desirable. Both complainant and respondent shall be permitted rebuttal to the written record compiled by the Committee.

11. Within 21 calendar days from the formation of the Committee, the Chairperson shall submit an opinion to the campus President as to whether or not discrimination has occurred.

12. If a tripartite committee cannot be selected within seven days, either because the grievant cannot select a member of the panel or the two selected panel members cannot agree on a third member, the Affirmative Action Grievance Chairperson (and, in the latter case, grievant) shall be so notified within that period.

13. The grievant may, in such cases, request that an outside hearing officer review the charge. Such request must be made in writing by the grievant to the Affirmative Action Committee Grievance Chairperson within five days from notification that a campus tripartite committee cannot be formed.

14. The request for an outside hearing officer shall be made in writing by the grievant to the Chairperson of the Affirmative Action Committee. The Chairperson shall submit a written statement within five days to the Assistant Vice Chancellor for Affirmative Action requesting that an outside hearing officer be appointed. The written request shall include a copy of the original grievance statement and the reason an outside hearing officer is being requested. An Affirmative Action Officer from another SUNY campus shall be assigned as hearing officer.

15. The Assistant Vice Chancellor for Affirmative Action shall designate a hearing officer within seven calendar days of receipt of the written request.

16. The hearing officer shall conduct a review and shall submit an opinion to the President within 21 calendar days from the date of appointment. The hearing officer shall have the right to all relevant information and to interview witnesses, including the right to bring together complainant and respondent, if desirable.

17. The President or designee shall communicate the opinion of the tripartite committee or of the hearing officer verbatim and in writing to the grievant and to the campus Affirmative Action Officer within seven calendar days together with a statement indicating his acceptance or rejection of the Committee's recommendation. The President will indicate his decision either to dismiss the charge for lack of evidence that unlawful discrimination has occurred or to discuss appropriate redress with the grievant if unlawful discrimination has been found.

Off-Campus Resolution of Grievances:

If the grievant is dissatisfied with the President's response, either because of a negative finding or disagreement over what constitutes appropriate redress, the grievant may file a formal complaint with the appropriate State or Federal agency. The campus Affirmative Action Office will provide information on State and Federal guidelines and laws and names and addresses of enforcement agencies.

Academic Grievances:

If a Campus Academic Grievance Committee has been established to review student complaints concerning grades, it shall continue to hear such complaints. If discrimination is alleged to be the basis for the grade, the campus Affirmative Action Officer shall sit with the Committee in an advisory capacity during the review.

Further Provisions on Time Limits:

1. All of the time limits contained above, with the exception of the 45 day limit on the initial filing of grievances, may be extended by mutual agreement of the grievant and the President or his designee.

2. If the University or designee thereof at any step fails to review and/or respond within the time limits provided, the grievant may proceed to the next step.

3. If grievant fails to respond within the time limits provided, the grievance shall be deemed to have been withdrawn.

4. In the event of a question of the timeliness of any grievance, grievance appeal or response, the dating and signing of the document shall be determinative. Any notices or documents sent by mail must be sent as registered mail and date of receipt shall be determinative.

STATE UNIVERSITY OF NEW YORK
CHARGE OF DISCRIMINATION

This form is to be used to file a charge of discrimination based on RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN, AGE, DISABILITY, OR MARITAL STATUS

CAMPUS _____

(PLEASE PRINT OR TYPE)

1. Your Name _____ Phone No. _____

Campus Address _____ Status _____
(Faculty, Staff, Graduate, Undergrad.)

Home Address _____

City _____ State _____ Zip Code _____

2. ALLEGED DISCRIMINATION WAS BASED ON:

Race or Color [] Religion [] National Origin [] Sex [] Age []

Disability [] Marital Status []

3. (a) Have you filed this charge with a Federal, State or Local government agency?

Yes [] When _____ No []
Month Day Year

(b) Have you instituted a suit or court action on this charge?

Yes [] When _____ No []
Month Day Year

4. Alleged discrimination took place on or about

Month _____ Day _____ Year _____

Check here if alleged discrimination is continuing _____

5. Describe briefly the act which occurred and your reason for concluding that it was discriminatory (Use extra sheet if necessary.)

6. I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

Date _____

(Sign Your Name) ()