

Civil Rights Grievance

<https://www.cccs.edu/sp-4-31a-civil-rights-grievance-and-investigation-process/>

Civil Rights Grievance and Investigation Process: Board Policy (BP) 3-120 and BP 4-120 provide that individuals affiliated with the System or Colleges shall not be subjected to unlawful discrimination and/or harassment on the basis of sex/gender, race, color, age, creed, national or ethnic origin, physical or mental disability, veteran or military status, pregnancy status, religion, genetic information, gender identity, sexual orientation, or any other protected category under applicable local, state, or federal law (also known as "civil rights laws"), including protections for those opposing discrimination or participating in any grievance process on campus or within the Equal Employment Opportunity Commission, the U.S. Department of Education Office for Civil Rights, or other human rights agencies, in its employment practices or educational programs and activities.

Definitions

ADA, Title VI, and VII Coordinator (EO Coordinator) and Title IX Coordinator(s) are the employee(s) designated by the System and College Presidents to oversee all civil rights complaints. The Presidents may also designate a "Deputy" EO and Title IX Coordinator, who make act on behalf of the Coordinator.

Complainant is a person who is subject to alleged inappropriate civil rights behavior. For purposes of this procedure, a complainant can be a CCCS employee, student, authorized volunteer, guest, or visitor.

Disciplinary Authority is the individual with authority, or delegated authority, to impose discipline upon a respondent.

Investigator is the person charged to investigate the civil rights grievance by the Title IX and/or the EO Coordinator. The Disciplinary Authority may also be the investigator over the particular complaint as well as the person in charge of enforcing the discipline.

Jurisdiction applies to behaviors that take place on the campus, at System or College sponsored events, and may also apply off-campus and to actions online when the Title IX/EO Coordinator determines that the off-campus conduct affects a substantial System or College interest.

Respondent is a person whose alleged conduct is the subject of a complaint. For purposes of this procedure, a respondent can be a CCCS employee, authorized volunteer, guest, visitor, or student.

Prohibited Conduct

Discrimination is any distinction, preference, advantage, or detriment given to a person based on one or more actual or perceived civil rights classifications.

Discriminatory Harassment is verbal or physical conduct, based on one or more actual or perceived civil rights classifications, that is sufficiently severe, persistent, or pervasive to alter the conditions of a person's employment and/or unreasonably interfere with a person's ability to participate in or benefit from the System or College's educational program and/or activities, from both a subjective and objective viewpoint.

Retaliatory Harassment is any adverse employment or educational action taken against a person because of the person's perceived participation in a complaint or investigation of discrimination and/or harassment.

Sexual Misconduct includes, but is not limited to:

- Sexual Harassment
- Non-Consensual Sexual Contact (or attempts to commit same)
- Non-Consensual Sexual Intercourse (or attempts to commit same)
- Sexual Exploitation

For more information on sexual misconduct, please refer to System President's Procedure (SP) 3-120a, Sexual Misconduct (if the accused is a CCCS employee, authorized volunteer, guest, or visitor), or SP 4-120a, Sexual Misconduct (if the accused is a student).

Other **Civil Rights Offenses** include, but are not limited to, the following, when the act is based upon one or more actual or perceived civil rights classifications:

- Threatening or causing physical harm, extreme verbal abuse or other conduct which threatens or endangers the health or safety of any person.
- Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another.
- Hazing, defined as acts likely to cause physical or psychological harm or social ostracism to any person within the System or College community, when related to the admission, initiation, pledging, joining, or any other group-affiliation activity; hazing is also illegal under Colorado law.
- Bullying, defined as repeated and/or severe aggressive behavior likely to intimidate or intentionally hurt, control or diminish another person, physically or mentally.
- Stalking, defined as a course of conduct directed at a specific person that is unwelcome and would cause a reasonable person to feel fear.

- Violation of any other System or College rule.

Procedure

Filing a Complaint: Trinidad State Junior College does not permit inappropriate civil rights behavior, including discrimination, harassment, and retaliation, in our work environment, and/or educational programs and activities. Trinidad State can respond to a complaint only if it is aware of the allegations made. Further, TSJC can more effectively investigate the sooner the allegation is brought to its attention. Any person who believes they have been subjected to a civil rights violation should follow this procedure to report these concerns. Trinidad State will act on any informal or formal grievance made under this procedure and brought to the attention of the Title IX and/or EO Coordinator.

All complaints shall be made as promptly as possible after the occurrence. A delay in reporting may be reasonable under some circumstances; however, an unreasonable delay in reporting is an appropriate consideration in evaluating the merits of a complaint or report.

TSJC includes a link on its web page which directs to the form to initiate a grievance (insert link). However, Trinidad State gives due consideration to any complaint submitted in writing, regardless of format. If use of the online form is not preferred, please report all concerns or complaints relating to civil rights violations to the Title IX/EO Coordinator, Lorrie Velasquez at TSJC or xxxxxx at the System.

The complaint should clearly and concisely describe the alleged incident, when and where it occurred, and the desired remedy sought. The grievance should be signed by the initiator or, in the case of an email submission, sent as an email attachment, in letter format and should contain the name and all contact information for the grievant. Any supporting documentation and evidence should be referenced within the body of the formal grievance. Additionally, the initiator of a grievance should submit any supporting materials in writing as quickly as is practicable.

The complainant's supporting documentation should clearly demonstrate all informal efforts, if any, to resolve the issue with the person involved and the person's supervisor. This includes names, dates and times of attempted or actual contact along with a description of the discussion and the manner of communication made in the course of each effort. If contacting the person involved and/or the supervisor is impracticable, the complainant should state the reasons why.

CCCS employees, unless deemed a confidential resource by law, have an ethical obligation to report any incidences they are aware of concerning civil rights violations. Employees unsure of the scope of this requirement may direct their questions to the Title IX and/or EO Coordinator. Failure to report will be considered a violation of BP 3-70, Colorado Community College System Code of Ethics, and may result in discipline, up to and including termination.

All CCCS employees receiving reports of potential civil rights violations are expected to promptly contact the Title IX and/or EO Coordinator within 24 hours of becoming aware of a report or incident. In all cases, the Title IX and/or EO Coordinator will give consideration to the victim in how the grievance is pursued, but reserves the right, when necessary to protect the community, to investigate and pursue a resolution when an alleged victim chooses not to initiate or participate in the grievance process. As necessary, the System and the Colleges reserve the right to initiate a complaint, to serve as complainant, and to initiate conduct proceedings without a formal complaint by the victim of misconduct.

Trinidad State Junior College will not tolerate intentional false reporting of incidents. False reporting could lead to disciplinary action, up to and including the sanctions listed herein. False reporting may also be a violation of state criminal statutes and civil defamation laws.

Outside Reporting: In addition to reporting to the System or College, any person has the right to file a police report. Complainants requiring assistance with this should contact the Title IX and/or EO Coordinator, Lorrie Velasquez at 719-846-5534. Student complainants also have the right to file a formal complaint with the United States Department Education: Office for Civil Rights (OCR), U.S. Department of Education, Cesar E. Chavez Memorial Building, 1244 Speer Boulevard, Suite 310, Denver, CO 80204-3582. Telephone: (303) 844-5695. Facsimile: (303) 844-4303. Email: OCR.Denver@ed.gov
Web: <http://www.ed.gov/ocr>

Employee complainants also have the right to file a formal complaint with the Colorado Department of Regulatory Agencies: Colorado Civil Rights Division, 1560 Broadway #1050, Denver, CO 80202. Telephone: (303) 894-2997. Facsimile: (303) 894-7830 [Colorado Civil Rights Division](http://www.ccrd.org) or United States Equal Employment Opportunity Commission, 303 E. 17th Avenue, Suite 410 Denver, CO 80203. Telephone: (800) 669-4000. Facsimile: (303) 866-1085. Web: <http://www.eeoc.gov/field/denver/index.cfm>

Confidentiality: Trinidad State Junior College employees and officials affiliated with the System and TSJC, depending on their roles, have varying reporting responsibilities and abilities to maintain confidentiality. In order to make informed choices, complainants should be aware of confidentiality and mandatory reporting requirements when consulting System and College resources.

On campus, some resources may maintain confidentiality, offering options and advice without any obligation to inform an outside agency or individual unless you have requested information to be shared. Other resources exist for individuals to report crimes and policy violations and these resources will take action when victimization is reported to them. Most resources on campus fall in the middle: neither the College, nor the law, requires them to divulge private information that is shared with them, except in rare circumstances, such as the existence of an immediate threat of harm to oneself or others.

Confidentiality can only be guaranteed for information shared exclusively with mental health counselors, either on or off campus, campus health service providers, off-campus rape crisis resources, legal professionals, and/or members of the clergy. The System and Colleges will provide on- and/or off-campus mental health counselors free of charge. Confidential resources endorsed by the College are asked to submit anonymous statistical information to the College for Clery Act purposes (see below) unless they believe it would be harmful to their client, patient, or parishioner.

Statutory Reporting Obligations: Certain campus officials have a duty to report criminal misconduct for federal statistical reporting purposes (Clery Act). All personally identifiable information is kept confidential, but statistical information must be passed along to campus law enforcement regarding the type of incident and its general location (on or off-campus, in the surrounding area, but no addresses are given) for publication in the annual Campus Security Report. This report helps to provide the community with a clear picture of the extent and nature of campus crime, to ensure greater community safety. Mandated federal reporters include: student affairs/student conduct officers, campus law enforcement, local police, coaches, athletic directors, residence life staff, student activities staff, human resources staff, advisors to student organizations and any other official with significant responsibility for student and campus activities. The information to be shared includes the date, the location of the incident (using Clery location categories) and the Clery crime category. This reporting protects the identity of the victim and may be done anonymously. Complainants should also be aware that College administrators must issue immediate timely warnings for incidents reported to them that are confirmed to pose a substantial threat of bodily harm or danger to members of the campus community. The College will make every effort to ensure that a victim's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the danger. For more information on Clery Act reporting requirements please contact the College's designee in charge with overseeing the Clery Reporting obligations.

Preliminary Steps and Timeline: Upon receipt of a complaint, the Title IX/EO Coordinator will undertake a preliminary inquiry to determine whether there is reasonable cause to believe a civil rights violation has occurred. If so, the System or the College will initiate a prompt, thorough and impartial investigation. This investigation is designed to provide a fair and reliable determination about whether policies or procedures have been violated. If so, the System or the College will implement a prompt and effective remedy designed to end the inappropriate behavior, prevent its recurrence and address its effects. A preliminary inquiry may, at the discretion of the Title IX/EO Coordinator, include interviews with the complaint, respondent, witnesses, and/or other relevant parties. If no reasonable cause is found to initiate a formal complaint, the Title IX/EO Coordinator shall inform the complainant of this decision in writing.

Trinidad State will make every effort to complete the investigation and implement remedies, if any, no later than 60 days from the date the complaint is filed. If the System or the College cannot resolve the formal complaint within this timeline, the Title IX/EO Coordinator may extend the deadline when necessary, and for good cause, to properly investigate the complaint. The System or the College will provide written notice to the parties of and the reason for the extension.

Interim Actions: If, in the judgment of the Title IX/EO Coordinator, the safety or well-being of any member of the College community may be jeopardized by the presence on-campus of the accused individual or the ongoing activity of a student organization whose behavior is in question, the Title IX/EO Coordinator may provide interim remedies intended to address the short-term effects of the inappropriate behavior, including retaliatory behavior, i.e., to redress harm to the alleged victim and the community and to prevent further violations. These remedies may include, but are not limited to, referral to counseling and health services or to the Colorado State Employee Assistance Program (CSEAP), education to the community, altering the housing situation of the accused student or resident employee (or the alleged victim, if desired), altering work arrangements for employees, providing campus escorts, implementing contact limitations between the parties, offering adjustments to academic deadlines, or course schedules.

Trinidad State may initiate an interim action against a student, place an employee on administrative leave, or dismiss from the College any authorized volunteer, guest, or visitor pending the completion of the investigation and issuance of findings. In all cases in which an interim action is imposed, the individual will be given the opportunity to meet with the Title IX/EO Coordinator prior to such action being imposed, or as soon thereafter as reasonably possible, to show cause why the interim action should not be implemented. The Title IX/EO Coordinator shall have sole discretion to implement or stay an interim action under this procedure, and to determine its conditions and duration. Violation of an interim action under this procedure may be grounds for further disciplinary action, up to and including expulsion, termination, activate a "cease communications" directive, or issue a "no trespass" order, also known as a *persona non grata*.

During an interim action, the respondent may be denied access to the College campus, facilities, events, and/or College housing (if applicable). As determined by the Title IX/EO Coordinator, in consultation with the appropriate administrative officer, Disciplinary Authority or designee, this restriction includes classes and/or all other College activities or privileges for which the respondent might otherwise be eligible. At the discretion of the Title IX/EO Coordinator, alternative coursework options, including the option of an on-line course, may be pursued to ensure as minimal an impact as possible on an accused student.

Rights of Involved Parties: Throughout the civil rights grievance process, both complainants and respondents shall be entitled to the following:

- To be treated with respect by CCCS employees.
- To take advantage of System and College support resources, such as counseling, psychological services, health services.
- To experience a safe living, educational and work environment.
- To have an advisor of their choice present at any meeting.
- To refuse to have an allegation resolved through conflict resolution procedures.
- To receive amnesty for minor student misconduct (such as alcohol or drug violations) that is ancillary to the incident.

- To be free from retaliation.
- To have grievances heard in substantial accordance with these procedures.
- To be informed in writing of the outcome/resolution of the grievance, sanctions where permissible, and the rationale for the outcome where permissible.
- To have assistance in contacting law enforcement, if desired.
- To housing, employment, and/or educational accommodations, if desired and as deemed appropriate and reasonable.
- To have no further contact with the opposite party, if desired.

Investigation: If, following a preliminary inquiry, the Title IX/EO Coordinator determines there is reasonable cause to believe a civil rights violation occurred, he/she shall open a case file and assign one or more persons to conduct a formal investigation into the alleged misconduct. The Title IX/EO Coordinator shall provide written notice to the complainant and respondent notifying them of the investigation.

The investigator will contact or request a meeting with the complainant, the respondent, and any relevant witnesses. The investigator may also contact or request a meeting with other involved parties as part of the investigation, at his/her discretion. The complainant and respondent may offer any documentation, witnesses, or other materials in support of their position as it relates to the complaint.

Trinidad State Junior College encourages individuals to offer help and assistance to others in need. Sometimes, people are hesitant to offer assistance to others, for fear that they may get themselves in trouble (for example, a student who has been drinking underage might hesitate to help take a sexual misconduct victim to the Campus Police or Security). The System and the College pursues a policy of limited immunity for individuals who offer help to others in need. This is not immunity from criminal prosecution. While policy and procedure violations cannot be overlooked, the System and the Colleges may provide educational options, rather than punishment, to those who offer their assistance to others in need.

The complainant and the respondent have the opportunity to be advised by a personal advisor of their choice, at their expense, at any stage of the process and to be accompanied by that advisor at any meeting or hearing. An advisor may only consult and advise his or her advisee, but not speak for the advisee at any meeting or hearing. These procedures are entirely administrative in nature and are not considered legal proceedings. The investigator may remove or dismiss an advisor who becomes disruptive or who does not abide by the restrictions on their participation as explained above.

Should the complainant or respondent decide to withdraw or resign while charges are pending, the process will proceed in his/her absence to a reasonable resolution and that person will not be permitted to return to the System or the Colleges until the investigation is concluded and all applicable sanctions have been satisfied. Trinidad State Junior College, at its discretion, may audio or video record any meeting throughout the process. No other audio or video recording will be allowed.

Report of Findings: At the conclusion of the investigation, the investigator shall issue a written report detailing his/her findings as to whether or not, based on a preponderance of the evidence, the alleged behavior took place and/or whether that behavior constitutes a civil rights violation. The report shall include a summary of all evidence and information used to reach these conclusions. In most circumstances, the System and the College will treat attempts to commit acts that would be considered civil rights violations or retaliation as if those attempts had been completed.

Upon receipt of the investigation report, the Title IX/EO Coordinator shall provide written notice to the complainant and respondent notifying them of the investigator's findings. A copy of the full investigation report shall be made available to either party upon request. The Complainant and Respondent shall be advised of their right to appeal the decision, subject to the grounds below, by filing a written appeal with the EO/Title IX Coordinator within seven (7) calendar days of service of the decision.

Appeal: In the event of an appeal, the Title IX/EO Coordinator shall perform an initial review to determine if the appeal meets the limited grounds listed below and is timely. If the appeal is found to meet these criteria, the Title IX/EO Coordinator shall forward the appeal to a designated appellate officer, who shall give written notice to all parties of the appeal and provide a suitable time frame within which the other party(ies) may submit a written response to the appeal. The appeal and any responses from the other party(ies) shall be reviewed by the appellate officer. The party requesting an appeal must show error, as the original finding is presumed to have been decided reasonably and appropriately. The ONLY grounds for appeal are as follows:

1. A procedural error occurred that significantly impacted the outcome of the decision (e.g., substantiated bias, material deviation from established procedures). The written appeal shall specify the procedural error and how it impacted the outcome of the decision.
2. The investigator's finding is not supported by substantial evidence in the investigation report or the report does not articulate a rational connection between the facts found and the decision made. The written appeal shall specify the finding that is not supported by substantial evidence or for which the report does not articulate a rational connection between the facts found and the decision made; or
3. To consider new evidence, unavailable during the original investigation, that could substantially impact the original finding. Any new evidence and its impact must be included in the written appeal.

If the appellate officer determines a procedural error occurred that significantly impacted the outcome of the decision, he/she shall return the complaint to the Title IX/EO Coordinator with instructions to convene a new investigation.

If the appellate officer determines the investigator's finding was not supported by substantial evidence in the investigation report, the report does not articulate a rational connection between the facts found and the decision made, or new evidence substantially impacts the original finding, the appellate officer shall modify the findings accordingly.

Decision: If the respondent is found not in violation, the complaint shall be closed with no further action.

If the respondent is found in violation, the findings shall be provided to the Disciplinary Authority to proceed in accordance with applicable policies:

- For faculty, disciplinary action will be in compliance with [BP 3-20, Due Process for Faculty](#)
- For classified employees, disciplinary action will be taken pursuant to the applicable [State Personnel Rules and Regulations](#)
- For students, disciplinary action will be taken pursuant to BP and [SP 4-30, Student Discipline](#)

The outcome of a campus investigation is part of the educational record of the accused student, and is protected from release under a federal law, FERPA. However, the System and the Colleges observe the legal exceptions as follows:

- Complainants in non-consensual sexual contact/intercourse, sexual exploitation, sexual harassment, stalking, and/or relationship violence incidents have an absolute right to be informed in writing of the outcome, essential findings, and sanctions without condition or limitation.
- The System and the Colleges may release publicly the name, nature of the violation, and the sanction imposed for any individual who is found to have committed a "crime of violence," including: arson, burglary, robbery, criminal homicide, sex offenses, assault, destruction/damage/vandalism of property and kidnapping/abduction. The System and the College will release this information to the complainant in any of these offenses regardless of the outcome.
- The College reserves the right to notify parents/guardians of dependent students regarding any health or safety risk, change in student status or conduct situation, particularly alcohol and other drug violations. The College may also notify parents/guardians of non-dependent students who are under age 21 of alcohol and/or drug policy violations. Where a student is not-dependent, the College will contact the appropriate next of kin to inform them of situations in which there is a significant and articulable health and/or safety risk. The College also reserves the right to designate which College officials have a need to know about individual conduct complaints pursuant to the Family Educational Rights and Privacy Act.

Sanctions: Sanctions or responsive actions will be determined by the Disciplinary Authority. Factors considered when determining a sanction/responsive action may include, but are not limited to, the following:

- The nature, severity of, and circumstances surrounding the violation;
- An individual's disciplinary history;
- Previous grievances or allegations involving similar conduct;
- Any other information deemed relevant by the Disciplinary Authority;
- The need for sanctions/responsive actions to bring an end to the behavior and/or retaliation;
- The need for sanctions/responsive actions to prevent the future recurrence of the behavior and/or retaliation; and
- The need to remedy the effects of the inappropriate behavior and/or retaliation on the victim and the System and College community.

The following are the usual sanctions that may be imposed:

- For students: warning, probation, fines, restitution, denial of privileges, assignment to perform services for the benefit of the System or College community, re-assignment to another class section including the option for an on-line section, suspension, expulsion, a "Cease Communications" directive, or a "No trespass" directive.
- For CCCS employees: warning, written warning, corrective actions, probation, restitution, denial of privileges, suspension, demotion, termination of employment, a "Cease Communications" directive, or a "No trespass" directive.
- For authorized volunteers, guest, or visitors-warning, writing warning, denial of privileges, dismissal from the System or College, a "Cease Communications" directive, or a "No Trespass" directive.

Interpretation and Revision: This procedure defines the process by which Trinidad State responds to allegations of civil rights violations. If statutory provisions, regulatory guidance, or court interpretations change or conflict with this procedure, the procedure can be deemed amended as of the time of the decision, ruling or legislative enactment to assure continued compliance.

Trinidad State and CCCS reserve the right to change any provision or requirement of this procedure at any time and the change shall become effective immediately.