

Lingnan University

Mechanism & Procedures in the Handling of Discrimination Cases*

1. Lodging a Complaint

Mediation and complaint investigation processes are available to students and staff members through informal resolution or formal investigation procedures. If any staff member or student believes that he/she has been discriminated by another staff member or student of the University because of his/her race, gender, family status, disability and/or other forms of discrimination as stipulated by relevant anti-discrimination ordinances and codes of practice, he/she may lodge a complaint. He/she should act promptly and may first try to seek an informal resolution. Informal resolution might include talking directly with the complainee or seeking an advocate such as his/her supervisor, counselor, hostel warden, or any other supervisory personnel (e.g. Heads of units) with whom he/she feel comfortable. The advocate may provide advice and support to the complainant as well as serve as informal mediator between the complainant and the complainee. Under normal circumstances, attempts at informal resolution do not require the filing of a written complaint.

The University encourages the use of informal resolution and/or mediation process as the initial step to resolve complaints relating to discrimination. If informal means fail to resolve the case or any parties involved in the case decide to stop the informal resolution, the complainant may make a formal written complaint to the President either directly or through the Office of the President, who may then appoint members to form the Discrimination Investigation Panel (DIP). The DIP will be designated to carry out the responsibilities as detailed in Annex and to report to the President. For each allegation/complaint, the DIP will conduct mediation and/or investigation.

If it can be demonstrated *prima facie* that the conduct of a student or employee of the University warrants disciplinary investigation, formal disciplinary procedures may be invoked.

If at any stage of the mediation/investigation process, any parties involved in the allegation/complaint reports the case to the Equal Opportunities Commission, or the law enforcement agency institutes any legal proceedings in connection with the allegation/complaint, the DIP may continue on further mediation/investigation until after the conclusion of criminal or civil proceedings.

Disciplinary action may be taken against any staff/student who is found to have lodged a false complaint or provided false information on purpose during the processes of mediation/investigation.

2. Mediation

In the course of mediation, the complainant may elect to bypass mediation and proceed directly with the filing of a written complaint.

The DIP will offer to facilitate mediation of the dispute upon the request of any person involved or alleged to be involved in the dispute.

The mediation process will normally take no more than sixty (60) days.

3. Complaint Investigation

3.1 Investigation

Upon receipt of a signed complaint from any staff member or student of the University or referral from Head of Departments/Head of Units, the appointed DIP will conduct a full and impartial investigation into the complaint. In appointing panel

members, the President should follow the specified guidelines and should also consider the diversity of membership (Details in the Annex). Moreover, persons taking part in the informal resolution or mediation should not be appointed as Panelists.

Under special circumstances as deemed necessary by the Convenor of the DIP, a non-staff Council member may join the investigation team.

In the course of the investigation, the following standards are observed:

- a) The complainee will be provided with a copy of the complaint by the DIP and an opportunity to respond to the allegation.
- b) The complainee may request that he/she be accompanied by a family member/staff member/fellow student. The accompanying person shall not be a member of or participate in any discussion with the members of the DIP or be a party to any report/decision subsequently made by the DIP in respect thereof.
- c) Witnesses and concerned parties will be interviewed individually and in compliance with the privacy requirements of applicable laws. The rule of confidentiality will be observed and the rights of both the complainant and complainee respected.
- d) The written complaint and relevant documents, if any, will be considered, and will be provided to the parties concerned.

3.2 Report of the DIP

The DIP will submit a written report to the President or his/her designated officer. The report shall contain the following information:

- a) A statement of the issues under investigation.

- b) The positions of the parties as presented.
- c) The results of the investigation.

3.3 Time Limits

- a) The filing of a written complaint should be made within (i) ninety days from the time of the occurrence which is known or should have been known to the complainant of an act(s) of the alleged discrimination or action taken as a result of the alleged discrimination or (ii) thirty days after mediation has been completed, whichever is later.
- b) The total time period for the investigation, from the filing of a written complaint to the submission of the report by the DIP and recommended action to the President, will not normally exceed sixty days.
- c) The President will within six days after receiving the report decide to accept or reject the recommendations or any part thereof contained in the report and will decide what actions, if any, should be taken. The President may request the DIP to clarify or provide further information prior to making his/her decision. The time limit set forth herein may be extended if appropriate. If a case of discrimination is established, the case will be referred to the Ethics and Discipline Committee (EDC)/ Student Disciplinary Committee (SDC) for consideration. For the mechanisms for the deliberation of the two committees, please visit the following website:

EDC: <http://www.ln.edu.hk/occbga/policies/disciplinary-actions-1.pdf>

SDC: <http://www.ln.edu.hk/reg/docs/rgds.pdf>

- d) The decision of the EDC/SDC will be made within sixty days of receipt of the report.
- e) Complainees are eligible to appeal, in accordance with the "Authorities and Guidelines for the Administration of Disciplinary Actions" or the "Regulations Governing Disciplines

of Students”, whichever is appropriate, against the decision on the disciplinary action(s).

4. Confidentiality

- 4.1 In the process of mediation/investigation every reasonable effort is made to protect the privacy of all parties involved and the confidentiality of all information and documents used in accordance with existing University policies and applicable laws.
- 4.2 During the mediation process, no record kept in relation to the case shall include the names of individuals or other information which would permit identification.

5. Conflict of Interest

Any person who has an actual or potential conflict of interest in the allegation/complaint shall declare his/her interest or shall not take part in the processes of mediation/investigation.

6. Victimization

The University prohibits victimization or retaliation of any kind against any staff/student for lodging a complaint in good faith, or for participating in the processes of mediation/investigation. Disciplinary action may be taken against any staff/student who is found to have committed any act of victimization or retaliation.

7. Lodging a complaint with the EOC or take legal action

Apart from filing a complaint through internal University procedures, the complainant may decide to lodge a complaint directly with the EOC or to the law enforcement agency or to file a law suit in the District Court of Hong Kong.

8. Disclaimer

All the provisions herein contained or any parts thereof are subject to any variations or amendments which the University Council may consider necessary. Such variations and amendments made by the Council will be announced to members of the University as soon as possible.

*The mechanisms and procedures for the handling of complaints about discrimination are designed in parallel with those pertaining to sexual harassment raised by staff and students of Lingnan University. They are implemented in order to ensure that disciplinary cases are well addressed and properly handled.

Discrimination Investigation Panel (DIP)

The Discrimination Investigation Panel shall consist of three staff members appointed by the President on an ad hoc basis, with one Panelist being appointed as the Convenor. In cases of students being involved in the complaint, one of the staff members will be replaced by a student member. In considering the appointment of Panel members, the President should consider the diversity of membership, for example, members of different gender and preferably of different ranks. Persons taking part in the informal mediation or resolution should not be appointed as Panelists.

The responsibilities of the Discrimination Investigation Panel include:

1. Informing individuals of available options, including but not limited to mediation and complaint investigation.
2. Informing all parties involved or alleged to be involved in a complaint of available formal disciplinary procedures if the complaint is not resolved through the processes on Mediation.
3. Informing the individual that the complaint, including the identity of the complainant, will be disclosed to the complainee.
4. Informing all parties involved or alleged to be involved in a complaint that the written report will be submitted via the President to the Ethics and Discipline Committee/Student Disciplinary Committee.
5. Conducting formal mediation or investigation on receipt of allegation/complaint.
6. Maintaining records of complaints, reports, and subsequent actions taken by University management in conformity with the privacy and confidentiality requirements of applicable laws.