

Contract Enforcement and Workplace Bullying

Using the Grievance Procedure as a tool in the fight against
bullying in the workplace

May 4, 2022

Community Norms and Practices

- In order for our community to function in this way, it is useful for its individual members to make the following commitments:
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1. I commit to conduct that is mutually respectful and not discriminatory, harassing, bullying or threatening.
2. I take responsibility for my actions and my personal perspectives, recognizing that there may be disagreements with another's.
3. I will respect everyone's contributions and honor the roles and responsibilities of all members through my words and actions.
4. I will be mindful and reflect on how I might be using or misusing my power and privilege in my interactions.
5. I will intend to be inclusive and support others with the same respect and compassion that I want for myself.
6. I am willing to be an active ally (upstander) by speaking, intervening, or acting on behalf of a person being attacked or bullied.
7. I will seek to understand others and assume best intentions in all interactions.
8. I will seek to understand other perspectives and avoid making assumptions.
9. I commit to listen actively and with compassion at the workplace and in all union meetings.

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PSC Contract Enforcement Department

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Definition of Workplace Bullying

- Workplace bullying is *repeated*, unreasonable actions aimed at intimidating, humiliating, degrading or undermining an employee or group of employees. Bullying may create a risk to employee health and safety.
- Workplace bullying often involves abuse or misuse of power. Bullying behavior creates feelings of defenselessness and injustice in the target and undermines an individual's right to dignity at work.
- Bullying is different from aggression, which may involve only a single act. Bullying involves repeated attacks, creating an *ongoing pattern* of abusive behavior.
- Bosses who are tough or demanding or who set high standards are not necessarily bullies, so long as they are respectful and fair and their expectations are reasonable.

**Article 20: Complaint,
Grievance and Arbitration
Procedure**

20.1 Intent:

The parties agree to use their best efforts to encourage the informal and prompt settlement of complaints and grievances which may arise between the PSC, the employees, and the University. The orderly processes hereinafter set forth will be the sole method used for the resolution of all complaints and grievances.

20.2 Definitions:

A complaint is an informal claim by an employee in the bargaining unit or by the PSC of improper, unfair, arbitrary or discriminatory treatment.

A complaint may, but need not, constitute a grievance. Complaints shall be processed through the informal procedure herein set forth.

A grievance is an allegation by an employee or the PSC that there has been:

1. a breach, misinterpretation or improper application of a term of this Agreement; or
2. an arbitrary or discriminatory application of, or a failure to act pursuant to the Bylaws and written policies of the Board related to the terms and conditions of employment.

Grievance Procedure

Article 20.4 – (in part)

- A grievance must be filed by an employee or the PSC within thirty (30) days, excluding Saturdays, Sundays and legal holidays, after the PSC or the employee on whose behalf the grievance is filed became aware of the action complained of, except that grievances relating to reappointment or to appointment with a certificate of continuous employment shall be filed within thirty (30) days excluding Saturdays, Sundays, or legal holidays of the individual's scheduled date of notification as specified by Articles 10 and 13 of the Agreement. Any grievance or informal complaint not processed in accordance with the time limits specified herein shall be deemed waived by the grievant.
- A grievance must be stated in writing setting forth the basis therefor with reasonable particularity, including a designation of the Article of the Agreement, the Section of the Bylaws, or the written policy of the Board relied upon, and the remedy requested.

20.3 Informal Procedure for Handling Complaints

- 20.3 Informal Procedure for Handling Complaints:
- Any employee in the bargaining unit may present and discuss his or her complaint either with or without a representative of the PSC. Similarly, a representative of the PSC may present and discuss a complaint on behalf of any employee or group of employees with the head of the department involved. This presentation and discussion shall be entirely informal. Any settlement, withdrawal or disposition of a complaint at this informal stage shall not constitute a binding precedent in the settlement of similar complaints or grievances.

Contract violations most common in bullying

- Article 8- prohibits discrimination based on race, gender, sexual orientation, disability, national origin, religion, political belief, and participating in union activity.
- Article 15- prohibits unreasonable workload and scheduling for HEO and CLT titles.
- Article 18- describes the proper procedure for evaluations.
- Article 19- describes the rights to access of the employee's personal personnel folder.

Contacting Contract Enforcement

Reach out if you suspect that you have been subject to:

- Violations of the PSC/CUNY Collective Bargaining Agreement
- Violations of CUNY Policies including but not limited to: Equal Opportunity and Non-Discrimination, Sexual Misconduct and Student Complaints, Workplace Violence.
- Violations of the CUNY Bylaws particularly Article IX Section 9.3

Documentation required for an effective grievance

- Memoranda and responses- NO RESPONSE IS A RESPONSE.
- Do you have witnesses? Are they willing to testify? What was seen, what was heard, where was the witness?
- Construct timelines to provide a narrative. Note any changes in supervision, assignment, workgroups. Include any complaints that were filed and any letters of determinations received in response.

Helpful hints

- Email all correspondence from the bully to your personal email.
- Memorialize all your conversations via email.
- File complaints with all appropriate investigative bodies.
- Pay attention to the timeline; we can always amend or withdraw but cannot file later than the contractual 30 business days.
- Grievances are filed against the college or program. **GRIEVANCES ARE NOT FILED AGAINST INDIVIDUALS.**

WEINGARTEN OVERVIEW

- What are “Weingarten Rights”?
- When are Weingarten Rights invoked?
- Why does the accused get union representation while the accuser does not?
- What happens when both parties need representation?

Questions and Answers