

## Unlawful Discrimination Complaint Process

In the event of the notification of an unlawful discrimination complaint, pursuant to Policy **7D4**, with the College, the process shall be as indicated below:

As is indicated in Policy **7D4**, this process covers alleged unlawful discrimination on the basis of age, race, color, national origin, gender, disability, religion, sexual orientation, marital status, or other forms of unlawful discrimination. Complaints may be filed within one (1) year of the alleged unlawful discrimination.

- 1) Any student or employee who feels that he or she is being unlawfully discriminated against is encouraged to informally notify and resolve the complaint with any of the following Responsible Personnel:
  - Instructor
  - Advisor or Counselor
  - Department/Division Chair
  - Dean or Vice President
  - Title IX Coordinator
  - College Human Resources Manager or District Human Resources Director
- 2) Any student or employee who feels that he or she is being unlawfully discriminated against is entitled to file a formal complaint with any of the following Responsible Personnel for resolution:
  - College Vice President
  - College Human Resources Manager or District Human Resources Director
  - Vice Chancellor, Human Resources
- 3) Supervisors shall take immediate action to report and/or remedy any perceived unlawful discrimination based on age, race, color, national origin, gender, disability, religion, sexual orientation, marital status, or other forms of unlawful discrimination.
- 4) At any point in the investigation, the student or the employee has the right to involve more than one (1) of the persons listed above.
- 5) The responsibilities of the person to whom the complaint has been made will include a written description of the complaint as described by the complainant. Based on the information in the complaint, the recipient of the complaint will implement one (1) of the following courses of action:
  - Informal Complaint Procedure, or
  - Formal Complaint Procedure

### **Informal Complaint Procedure**

The purpose of the informal complaint process is to allow an individual who believes he/she has been unlawfully discriminated against to resolve the issue through a consultation process rather than the more formal investigative process provided by the College.

The steps of the informal procedure are:

- 1) If the complainant believes that discussions of alleged unlawful discrimination with the alleged perpetrator/respondent or his/her supervisor would be unproductive or inappropriate, the complainant should consult with the Responsible Personnel or designee who shall ascertain as much detail as possible including date(s), time(s), description of incident(s), party(ies) involved, witness(es), etc.
- 2) The Responsible Personnel or designee will counsel the complainant regarding the Unlawful Discrimination Complaint procedure. Complainant shall be advised that the informal procedure is not a pre-requisite for filing a formal Unlawful Discrimination complaint. [California Code of Regulations, Section 59327(2)]
- 3) The complainant's allegation of unlawful discrimination shall be kept as confidential as possible by the Responsible Personnel or designee and shall be used only to provide a factual basis for resolving the complaint.
- 4) Within ten (10) days of receipt of the informal complaint, the Responsible Personnel or designee shall contact the alleged perpetrator/respondent in an attempt to resolve the matter informally. The alleged perpetrator/respondent will be asked to respond to the allegations.
- 5) Within ten (10) days of discussing the matter with the alleged perpetrator/respondent, the Responsible Personnel or designee will review the statements of both the complainant and the alleged perpetrator/respondent and meet individually with each party, and if necessary, meet with witnesses in an attempt to resolve the matter.
- 6) Steps One (1) through Five (5) of this informal procedure shall not exceed the ninety (90) days afforded to complainants filing a formal complaint. [California Code of Regulations, Section 59336]

### **Possible Outcomes of the Informal Complaint Procedure**

- 1) If the matter is resolved, the Responsible Personnel or designee will put the resolution in writing and meet with both parties who will review and sign the agreement.
- 2) If the parties agree there has been no unlawful discrimination and are satisfied with the resolution, the documents connected with the allegation shall be destroyed by the Responsible Personnel or designee and the complaint will be considered resolved.
- 3) If the parties agree that unlawful discrimination has occurred, but are satisfied with the resolution, then the documentation connected with the allegations and resolution will be placed in an employee's official personnel file in the District Office of Human Resources and shall be considered sealed after a period of three (3) years.
- 4) If, after negotiations between the parties, it becomes clear to the Responsible Personnel or designee that an informal resolution cannot be reached, he/she will convey the determination to both parties. The Responsible Personnel or designee will also inform the complainant of the right to file a formal unlawful discrimination complaint under this procedure.

## **Formal Complaint Procedure**

- 1) The complainant shall initiate the formal complaint procedure by filing a complaint in writing on the District's Unlawful Discrimination Formal Complaint form.
- 2) Within ten (10) days of receipt of the formal complaint, the Responsible Personnel or designee shall contact the alleged perpetrator/respondent in an attempt to resolve the matter informally. The alleged perpetrator/respondent will be asked to respond to the allegations.
- 3) Within ten (10) days of discussing the matter with the alleged perpetrator/respondent, the Responsible Personnel or designee will review the statements of both the complainant and the alleged perpetrator/respondent and meet individually with each party, and if necessary, meet with witnesses in an attempt to resolve the matter.
- 4) Both parties have a right to be accompanied by a representative at each step in this procedure and shall have the right to present documentary evidence and witness statements.
- 5) Within ninety (90) days of receiving the formal complaint, the following shall be completed:
  - a) Investigation of the unlawful discrimination complaint.
  - b) A written administrative determination letter to both the complainant and alleged perpetrator/respondent specifying the following:
    1. All behaviors that were alleged to constitute the unlawful discrimination.
    2. A decision that the unlawful discrimination complaint is substantiated or unsubstantiated.
    3. A description of any corrective action to be taken by the College or District administration. Notice of the complainant's appeal rights.
- 6) Only if the investigation substantiates the alleged unlawful discrimination the written administrative letter shall be placed in the perpetrator's personnel file. The administrative letter placed in the perpetrator's official personnel file in the District Office of Human Resources shall be considered sealed after a period of three (3) years.
- 7) If complainant is not satisfied with the results of the administrative determination, he/she may submit a written appeal to the Board of Trustees within fifteen (15) days of the date of notice of the administrative determination. The Board shall review the original complaint, the investigative report, administrative determination, and the appeal, and shall issue a decision within forty-five (45) days after the filing of the appeal.
- 8) For complaints filed by students, if the complainant is not satisfied with the Board's decision, he/she may file an appeal with the State Chancellor's Office as prescribed in the Education Code. Students may also file a complaint with Office for Civil Rights of the U.S. Department of Education (OCR) during any step in the unlawful discrimination investigative process.
- 9) Within one hundred and fifty (150) days after receiving a written formal complaint, the District will forward to the State Chancellor's Office the results of the investigation as described in this Procedure.

- 10) For complaints filed by employees, the employee may file a complaint with the Department of Fair Employment and Housing or the Equal Opportunity Commission during any step in the unlawful discrimination complaint investigative process.

Reviewed and Recommended by  
Chancellor's Cabinet  
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District Consultation Council  
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