

CITRUS COMMUNITY COLLEGE DISTRICT HUMAN RESOURCES

AP 7101.1 Discrimination Complaint Procedure: Students

Reference: Title IX of the Education Amendments of 1972, Education Code Sections 212.5, 66250, 66262.5, 66270, 66281.5 and 6630 and Title 5, California Code of Regulations, Sections 59320-59362

General Provisions

This complaint procedure is implemented with the purpose of providing students with a fair and expeditious process for the adjudication of all discrimination complaints, including sex (gender) discrimination, sexual harassment and sexual violence (assault).

It is a violation of District policy and state and federal law to discriminate against students based on sex. This includes sexual harassment and sexual violence (assault). The District is committed to providing an academic environment free of unlawful discrimination and sexual harassment/violence.

Sexual harassment is defined under Administrative Procedure 7102.1 Prohibition of Harassment: Students. Generally, sexual harassment consists of unwelcome sexual advances, inappropriate touching, requests for sexual favors and other conduct of a sexual nature such as verbal slurs, innuendos, threats, pictures or offensive joke telling.

Sexual violence (assault) is defined under Administrative Procedure 3540. Generally, sexual violence (assault) includes, but is not limited to, rape, forced sodomy, forced oral copulation, rape by a foreign object, sexual battery, threat of sexual assault, domestic violence, stalking and dating violence.

Investigations of all complaints brought under this administrative procedure shall be conducted in a manner that seeks to balance issues of confidentiality and privacy with the need to conduct a thorough, objective investigation of all complaints. The right of the Complainant to freedom from retaliation shall be protected.

A student who seeks to resolve an allegation of discrimination through this administrative procedure is referred to as a "Complainant." While the Complainant is strongly encouraged to submit his/her complaint in writing, the District will investigate any allegation of unlawful discrimination subject to determinations made based on the Complainant's request for confidentiality (see below). The person claimed to engage in prohibited conduct is referred to as the "Respondent." All other individuals involved are referred to as "witnesses."

Privacy and Confidentiality

The District is committed to protecting the privacy of all individuals involved in a report of sex discrimination, including allegations of sexual harassment and sexual violence (assault).

Privacy refers to District's responsibility to share information obtained while responding to incidents of sex discrimination, including sexual harassment and sexual violence (assault) including information obtained as part of an investigation conducted pursuant to this administrative procedure only to a limited circle of individuals. This information is limited to those District employees who need to know in order to provide assistance and to conduct a thorough review investigation and resolution of incidents.

Confidentiality means that the information shared by an individual, usually the Complainant, with designated campus or community professionals cannot be revealed to any other individual without the express permission of the Complainant. These campus and community professionals include mental health providers, ordained clergy, rape crisis counselors and attorneys.

The Complainant shall have the right to request that his or her name not be revealed to the alleged perpetrator or request that the District not investigate or seek action against the alleged perpetrator. Upon receiving such a request, the District will notify the Complainant that agreeing to such a request may limit the District's ability to fully respond to the incident. In addition, the District will, upon receiving such a request, determine if it can agree to such a request while still providing a safe and nondiscriminatory environment for all students.

Reporting an Incident

Any student may bring forward information regarding sex discrimination, including sexual harassment and sexual violence (assault) by directly reporting the incident to the designated Title IX Coordinator or to the Director of Human Resources.

The designated Title IX Coordinator is:

Ms. Brenda Fink, Human Resources Manager (626) 914-8830

The Director of Human Resources is:

Dr. Robert Sammis (626) 914-8554

In addition, all District employees are designated as "responsible employees" and, as such, the Complainant may initially go to any District employee to report an incident of sex discrimination, including sexual harassment or sexual violence (assault). A responsible employee is required to report any information directly reported to him or her or when the responsible employee knew or should have known of facts suggesting sex discrimination, including sexual harassment and sexual violence (assault). Please note that unless the District employee is employed as a mental health provider, the

responsible employee will be required to inform the Title IX Coordinator or other appropriate District administrator of the information received or known. Such obligation shall be consistent with the privacy right described above.

Complaints Involving Criminal Conduct

If the complained of incident involves a matter of sexual violence (assault) or any other conduct that may also be criminally prohibited, the Complainant is encouraged, and has the right, to file a complaint with an appropriate police department. If requested, the District will assist the Complainant in contacting the appropriate police department.

In those cases where the Complainant has filed a criminal complaint, the District will proceed with an investigation under the formal complaint procedure. If the responding police department requests the District to temporarily delay its own investigation, the District will comply with such a request and work with the police department to coordinate the District's investigation. The District will still be required to complete its investigation within the sixty (60) calendar day's requirement, and will implement interim measures as may be appropriate.

Interim Measures

The District is committed to ensuring equal access to its education programs and activities and to protect the Complainant as necessary. Thus, upon receiving a written complaint under this administrative procedure or when the District is aware of allegations of sex discrimination, including sexual harassment and sexual violence (assault), the Title IX Coordinator will immediately assess the need for interim measures. The District will apply appropriate interim measures even in matters where the Complainant has requested confidentiality. Interim measures may include, but are not limited to, the following: No contact orders, suspension, change in academic situations without placing an undue burden on the Complainant, academic accommodations, counseling, escort services, academic support, and health and mental services. The Complainant shall receive written notice of any implemented interim measures.

Informal Resolution Procedure

The informal resolution procedure provides an opportunity to explore an allegation of sex discrimination, including sexual harassment and sexual violence (assault) and consider prompt means for resolution, including immediate corrective action before resorting to the formal complaint procedures. Participation in the informal complaint process is voluntary on the part of the Complainant and Respondent. The informal resolution procedure is not available for allegations that may constitute sexual violence (assault).

If the Complainant requests that his or her complaint be considered under the informal resolution procedure, the Complainant shall so designate on the written form included as part of this administrative procedure or otherwise notify the Title IX Coordinator.

The Informal resolution procedure is completely voluntary and at any time during the procedure the Complainant or the Respondent may terminate his/her involvement.

1. Request for Informal Resolution: Once a request is received to utilize the Informal Resolution Procedure, the Title IX Coordinator shall determine if the alleged conduct is appropriate for the Informal Resolution Procedure. Such determination shall be made and notice shall be provided to the Complainant and the Respondent within three (3) business days from receipt of such a request.
2. Timelines and Outcome: The informal complaint procedure will conclude within ten (10) calendar days from the date of the first meeting. If no resolution is reached, the matter will be handled pursuant to the formal complaint procedure. If resolution is reached, the decisions made, including any corrective action will be immediately implemented. Within two (2) calendar days from the completion of the informal resolution procedure, the Complainant and the Respondent shall be sent written notice of the result of the informal resolution procedure.

The informal process shall not extend the time requirements as provided for completion of the complaint procedure which shall normally be sixty (60) calendar days from receipt of a complaint or when the Title IX Coordinator is aware of the facts giving rise to the incident.

Formal Complaint Procedure

The Complainant may file a complaint directly as a formal complaint and is not required to participate in the informal resolution procedure. In addition, immediately upon receiving a written complaint, or once the District is aware of an incident that may constitute sex discrimination, including sexual harassment and sexual violence (assault), the Title IX Coordinator will immediately assess the need for interim measures (see Interim Measures above).

The purpose of the formal complaint procedure is to provide a fair and reliable gathering of the facts in order to remedy any incidents of sex discrimination, including sexual harassment and sexual violence (assault), and to protect the Complainant and students in general from a recurrence of the complained of conduct. The investigation will be thorough, timely, impartial and fair, and all individuals a part of the investigation will be treated with appropriate sensitivity and respect.

Filing Complaint

The Complainant may file a written complaint by completing the Complaint Procedure form provided for in Appendix B to this administrative procedure.

Investigation of Complaint

All complaints, whether received as a formal written complaint pursuant to this administrative procedure or known to the District shall be investigated based on the following guidelines:

1. Witnesses and Evidence: The investigation will consist of interviewing relevant witnesses and other evidence including documents, pictures, text, emails, etc.

The Complainant and the Respondent will have the opportunity to request that certain witnesses be interviewed and to provide other relevant evidence.

2. Investigator: Investigations will normally be conducted by either the Title IX Coordinator or the Director of Human Resources. The District reserves the right to utilize an outside investigator. The investigator must not have a bias or conflict of interest.
3. Attorneys and Advisors: The District prohibits the Complainant, the Respondent, and any witnesses from being represented by an attorney during an investigation interview. The Complainant, Respondent, or any witnesses may seek the advice of an attorney at his or her own expense.

The Complainant, Respondent, or any witnesses may choose to be assisted by an advisor during an interview conducted as part of the investigation. The advisor may not be an attorney or a family member. The advisor may not speak during the investigation or in any way interfere with the questioning of the Complainant, Respondent, or any witnesses.

4. Standard of Proof: In determining if the complained of conduct violates the District's prohibition on discrimination based on sex discrimination, including sexual harassment and sexual violence (assault), the investigator will review and weigh all testimony and evidence based on the "preponderance" of the evidence (more likely than not).
5. Evidence of Complainant's Past Relationships: The Complainant shall not be asked about his/her past relationships including sexual relationships except as may be relevant concerning the Respondent. The mere fact of a current or previous consensual dating or sexual relationship between the Complainant and the Respondent does not itself imply consent or preclude a finding of sexual harassment or sexual violence (assault).
6. Periodic Updates: During the period of time an investigation is underway, the District will provide the Complainant and the Respondent (where appropriate) with a written notice of the investigation status. Such notice will be provided at least twice during the sixty (60) calendar day period of time to complete an investigation.
7. Investigation Report: The results of the investigation shall be set forth in a written report, which shall include at least all of the following:
 - a) A description of the circumstances giving rise to the complaint;
 - b) A summary of the testimony provided by the Complainant, Respondent, and each witness interviewed;
 - c) An analysis of any relevant data or other evidence collected during the course of the investigation;

- d) A specific finding as to whether sex discrimination, including sexual harassment and sexual violence (assault), did or did not occur with respect to each allegation in the complaint;
- e) Any other information deemed appropriate by the District;
- f) Recommendations for measures designed to redress the violation and to ensure that the Complainant and students in general are protected from a recurrence of the same or similar conduct; and,
- g) Any recommendation for student disciplinary action including suspension or expulsion.

Timeline for Concluding Formal Complaints and Notice

Within sixty (60) calendar days of receiving a written complaint or from District knowledge of the incident, the District shall complete its investigation and forward all of the following to the Complainant and Respondent:

1. A written Administrative Determination summarizing the investigation and setting forth:
 - a) As to the Complainant and Respondent: The determination as to whether sex discrimination, including sexual harassment or sexual violence (assault), did or did not occur with respect to each allegation in the complaint;
 - b) As to the Complainant: A description of actions taken, if any, to protect the Complainant, including any academic accommodations and any continuation of interim measures designed to prevent similar problems from occurring in the future;
 - c) As to the Complainant and Respondent: The proposed resolution of the complaint; and,
 - d) As to the Complainant: the Complainant's right to appeal to the District Board of Trustees and the California Community College's Chancellor's Office.

The above-referenced timeline may be extended due to extenuating circumstances. Extenuating circumstances may include the complexity and scope of the investigation, the number of witnesses involved, the availability of the parties including witnesses, the impact of an ongoing criminal investigation, any intervening school break or other unforeseen circumstances. In the event that the District seeks to extend the investigation beyond the sixty (60) calendar days, the District shall provide the Complainant and the Respondent (when appropriate) written notice of the new proposed date for completion of the investigation.

Direct Complaint to Compliance Agencies

The filing of a formal discrimination complaint with the District shall in no way prevent the Complainant from filing a complaint with the California Department of Fair

Employment and Housing Commission (DFEHC), U. S. Equal Employment Opportunities Commission (EEOC), Office for Civil Rights of the U.S. Department of Education (OCR), or the Chancellor's Office of the California Community Colleges.

Appeal of Decision

If the Complainant is not satisfied with the results of the Administrative Determination, the Complainant may, within fifteen (15) days, submit a written appeal to the Board of Trustees. The Board of Trustees shall review the original complaint, the investigative report, the Administrative Determination and the appeal, and issue a final District decision in the matter within forty-five (45) days after receiving the appeal. A copy of the final District decision rendered by the Board of Trustees shall be forwarded to the Complainant and to the Chancellor of the California Community Colleges. The Complainant shall also be notified of his or her right to appeal this decision. If the Board of Trustees does not act within forty-five (45) days, the Administrative Determination shall be deemed approved and shall become the final District decision in the matter.

In any case not involving employment discrimination, the Complainant shall have the right to file a written appeal with the Chancellor of the California Community Colleges within thirty (30) days after the Board of Trustees issues the final District decision or permits the Administrative Determination to become final.

In any case involving employment discrimination, the Complainant may, at any time before or after the final District decision is rendered, file a complaint with the Department of Fair Employment and Housing (DFEH), or the Equal Employment Opportunity Commission (EEOC).

Information to Be Forwarded to the Chancellor's Office

Within one hundred and fifty (150) days of receiving a formal complaint, the District will forward the following to the Chancellor:

1. The original complaint;
2. The report required describing the nature and extent of the investigation conducted by the District;
3. A copy of the notice sent to the Complainant;
4. A copy of the final District decision rendered by the Board of Trustees or a statement indicating the date on which the Administrative Determination became final;
5. A copy of the required notice to the Complainant; and,
6. Such other information as the Chancellor may require.

If the District, for reasons beyond its control, is unable to comply with the one hundred and fifty (150) day deadline for submission of material to the Chancellor of the California Community Colleges, the District may file a written request that the Chancellor grant an extension of the deadline. The request shall be submitted not later than ten (10) days prior to the expiration of the deadline and shall set the reasons for the request and the date by which the District expects to be able to submit the required materials.

A copy of the request for an extension shall be sent to the Complainant who may file written objections with the Chancellor within five (5) days of receipt. The Chancellor may grant the request unless delay would be prejudicial to the Complainant.

If the District fails to comply by the required deadline, including any extension granted pursuant to this section, the Chancellor may proceed to review the case based on the original complaint and any other relevant information then available.

Retaliation

It is a violation of District policy and administrative procedures for a student to be retaliated against for bringing forward a concern or complaint involving sex discrimination, including sexual harassment and sexual violence (assault). This prohibition on retaliation includes any retaliatory activity by the District or by any student, employee or other third party against a student who has brought forward a concern or complaint regarding sex discrimination, including sexual harassment and sexual assault (violence).

Training

The District will provide annual training for all employees concerning gender discrimination, including sexual harassment and violence, the requirements of responsible employees, and this complaint procedure.

Board Approved 12/06/16
Desk Review 10/31/19

Appendix A **Contact Information**

For Reporting Complaints:

Title IX Coordinator: Ms. Brenda Fink, Human Resources Manager (626) 914- 8830

Director of Human Resources: Dr. Robert Sammis (626) 914-8554

Campus Non-Confidential Resources:

Campus Safety: (626) 914-8611

Student Health Center (626) 914-8671

Glendora Police Department: (626) 914-8250

Confidential Resources On and Off Campus:

Student Health Center (Mental Health Counselor) (626) 914-8671

24 Hour Rape Hotline (909) 626-4257

Family Counseling Services (626) 308-1414

Peace Over Violence (626) 793-3385

Project Sister Family Service (626) 966-4155

APPENDIX B
Discrimination Complaint Form

Citrus Community College District
Unlawful Discrimination Complaint Form

Name: _____
 Last First

Address: _____
 Street or PO Box City State Zip

Phone: _____(_____)_____ (_____)_____
 Day Evening

I am a: Student Employee Other: _____

I wish to have this complaint reviewed pursuant to the informal resolution procedure _____

I Allege Discrimination Based on the Following Category (select all that apply):

- | | |
|------------------------------|------------------------------|
| Ancestry | Gender Identification |
| Color | Gender Expression |
| Ethnic Group Identification | Marital Status |
| National Origin | Military or Veteran's Status |
| Race | Pregnancy |
| Religion | Genetic Information |
| Physical Disability | Retaliation |
| Mental Disability | Use of Family/Medical Leave |
| Sex/Gender | |
| Sexual Harassment or Assault | |
| Sexual Orientation | |

Clearly state your complaint. Describe each incident of alleged discrimination separately. For each action provide the following information: 1) date(s) the discriminatory action occurred; 2) name of the individual(s) who discriminated; 3) what happened; and, 4) witnesses (if any). (Attach additional pages as necessary.)

I certify that this information is correct to the best of my knowledge.

Signature of Complainant

Date

Send Original to the District:

Citrus Community College District
Human Resources Manager/Title IX Coordinator
Administration Building
1000 West Foothill Blvd.
Glendora, CA 91741-1899