

CITRUS COMMUNITY COLLEGE DISTRICT HUMAN RESOURCES

AP 7101 Discrimination Complaint Procedure: Employees and Job Applicants

Reference: Title 5, California Code of Regulations, Sections 59320-59362

General Provisions

The District will provide all employees and job applicants with an expeditious and effective procedure for resolution of complaints alleging unlawful discrimination and sexual harassment (hereinafter referred to as "Discrimination") as defined under Board Policy 7101 and 7102. Investigations shall be conducted in a manner that seeks to balance issues of confidentiality and privacy with the need to conduct thorough, objective investigations of all complaints. Rights of Complainants to freedom from retribution shall be protected.

An employee or job applicant who seeks to resolve an allegation of discrimination through this Administrative Procedure is referred to as a "Complainant". While a Complainant is strongly encouraged to submit his/her complaint in writing, the District will investigate any allegation of unlawful discrimination that it becomes aware of unless the Complainant specifies in writing that he/she does not want the District to investigate his/her allegation(s). All complaints shall be filed within one year of the date of the alleged unlawful discrimination or within one year of the date on which the Complainant knew or should have known of the facts underlying the allegation of unlawful discrimination.

Informal Complaint Procedure

The District encourages the resolution of complaints through the informal process. The informal complaint procedure provides an opportunity to explore an allegation of discrimination and consider prompt alternative means for resolution before resorting to the formal complaint procedures. Participation in the informal complaint process is voluntary on the part of the Complainant.

1. **Filing Complaint:** An informal complaint alleging unlawful discrimination shall be filed in person with the Director of Human Resources, or designee, or the employee's immediate supervisor as soon as possible following the occurrence, which gave rise to the complaint.
2. **Formal Resolution of Complaint:** The complaint shall be reviewed by the Director of Human Resources, or designee, or the employee's immediate supervisor. If a prima facie case supporting the complaint is determined to exist, appropriate steps shall be taken to safeguard the right(s) of the Complainant to fair consideration.

until final determination of the complaint has been made. The Director of Human Resources, or designee, may discuss with the Complainant options to resolve the issue(s) set forth in the complaint.

3. **Direct Complaint to Compliance Agencies:** At any time, before or during the informal complaint procedure, a Complainant may directly file his/her 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.
4. **Timelines for Informal Resolution of Complaints:** Within 30 days of the beginning of the Informal Complaint Procedure, the Complainant will be notified as to the determination whether the complaint sets forth a prima facie case of discrimination and, if any, the recommended remedy. However, efforts to informally resolve the complaint may continue during the time period set forth below for the processing of a formal complaint.
5. **Reports of Informal Complaints:** In the event that the informal complaint process is conducted by a District administrator, manager, or supervisor other than the Director of Human Resources, or designee, any such person shall notify the Director of Human Resources, or designee, of all informal complaints and their resolution.

Formal Complaint Procedure

When a complaint cannot be resolved through the informal procedure, the Complainant may submit a formal complaint.

Filing Complaint

In the event that the Complainant exercised his/her rights under the Informal Complaint Procedure, a formal complaint alleging unlawful discrimination shall be filed in writing with the Director of Human Resources, or designee, or the Chancellor of the California Community Colleges on the District approved complaint form within 10 days following the determination of an informal complaint. In the event that the allegation(s) of unlawful discrimination was not addressed pursuant to the Informal Complaint Procedure, a complaint must be filed within one year of the date of the alleged unlawful discrimination or within one year of the date on which the Complainant knew or should have known of the facts underlying the allegation of unlawful discrimination.

Investigation of Complaint

The complaint shall be investigated by the Director of Human Resources, or designee. Upon filing of the complaint, the Director of Human Resources, or designee, shall take the steps necessary to safeguard the right(s) of the Complainant to fair consideration until final determination of the complaint has been reached. The District reserves the right to utilize an investigator hired by the District. The investigator shall conduct an impartial fact-finding investigation and may question witnesses and collect information.

The results of the investigation shall be set forth in a written report, which shall include at least all of the following:

1. A description of the circumstances giving rise to the complaint;
2. A summary of the testimony provided by each witness, including the Complainant and any witnesses identified by the Complainant in the complaint;
3. An analysis of any relevant data or other evidence collected during the course of the investigation;
4. A specific finding as to whether discrimination did or did not occur with respect to each allegation in the complaint; and
5. Any other information deemed appropriate by the District.

Timeline for Concluding Formal Complaints

Within 90 days of receiving a formal complaint, the District shall complete its investigation and forward all of the following to the Complainant:

1. A written Administrative Determination summarizing the investigation and setting forth:
 - a) The determination as to whether discrimination did or did not occur with respect to each allegation in the complaint;
 - b) A description of actions taken, if any, to prevent similar problems from occurring in the future;
 - c) The proposed resolution of the complaint; and,
 - d) The Complainant's right to appeal to the District Board of Trustees and the Chancellor.

Direct Complaint to Compliance Agencies

The filing of a formal unlawful 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 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 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 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 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 Sent to the Chancellor's Office

Within 150 days of receiving a 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.

Requests for Extension of Time to Complete Investigation

If the District, for reasons beyond its control, is unable to comply with the 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 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.

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Desk Review	10/17/12
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