



Reference: *Education Code Sections 66281.5; Government Code 12950.1; Title 5, Section 59320, 59324, 59326, 59328 and 59300 et. seq.; 34 CFR Section 106.8(b)*

Filing a Timely Complaint

Since failure to report harassment and discrimination impedes the District's ability to stop the behavior, the District strongly encourages employees and students who believe they are being harassed or discriminated against to file a complaint. The District also strongly encourages the filing of such complaints within 30 days of the alleged incident. While all complaints are taken seriously and will be investigated promptly, delay in filing impedes the District's ability to investigate and remediate.

All employees, vendors, volunteers and students, as a condition of participation, employment or study, have a mandatory duty to report incidents of harassment and discrimination; the existence of a hostile, offensive, or intimidating work environment; and all acts of retaliation.

Communicating that the Conduct is Unwelcome

The District further encourages students and staff to let the offending person know immediately and firmly that the conduct or behavior is unwelcome, offensive, in poor taste and/or inappropriate.

Oversight of Complaint Procedure

The Chancellor or his/her designee is the Responsible District Officer responsible for receiving complaints of discrimination or harassment and coordinating investigations.

The actual investigation of complaints may be assigned by the Chancellor or his/her designee to other staff, or to outside persons or organizations under contract with the District. This shall occur whenever the Chancellor or his/her designee is named in the complaint or implicated by the allegations in the complaint.

Where to File a Complaint

A student or employee who believes he or she has been discriminated against or harassed in violation of policy and procedures may make a complaint orally or in writing, within one year of the date of the alleged harassment or the date on which the complainant knew or should have known of the facts underlying the complaint.

If a complainant decides to file a formal written unlawful discrimination or harassment complaint against the District, he or she must file the complaint on a form prescribed by the California Community College Chancellor's Office. These approved forms are available from the Director of Human Resources and at the following URL:

www.cccco.edu/divisions/legal/discrimination/discrimination.htm

**Administrative Procedure 3435
Discrimination and Harassment Investigations**

The completed form must be filed with any of the following:

- Human Resources Department
- Chief Instructional Officer
- Vice Chancellor of Business Services
- Chancellor
- Chancellor of the California Community Colleges

Employee complainants are notified that they may file employment discrimination complaints with the Equal Employment Opportunity Commission (EEOC) or the Department of Fair Employment and Housing (DFEH).

Complaints filed with the EEOC and/or the DFEH are forwarded to the State Chancellor's Office. Any District employee who receives a harassment or discrimination complaint shall notify Director of Human Resources or his/her designee immediately.

Intake and Processing of Complaints

Upon receiving notification of a harassment or discrimination complaint, the Responsible District Officer (RDO) will:

- Undertake efforts to informally resolve the charges including, but not limited to, mediation, rearrangement of work/academic schedules; obtaining apologies; providing informal counseling and/or training; etc.;
- Advise complainants they need not participate in informal resolutions as described above and they may file a complaint with the Office of Civil Rights of the U.S. Department of Education. The RDO also notifies the Chancellor of the California Community Colleges.
- Authorize the investigation of the complaint and supervise and/or conduct a thorough, prompt and impartial investigation, as set forth below. Where complainants opt for informal resolution, the RDO will determine whether further investigation is necessary to ensure resolution of the matter and utilize the investigation process. In the case of a formal complaint, the investigation will include interviews with the complainant, the accused and any other persons who may have relevant knowledge concerning the complaint. This may include victims of similar conduct.
- Review the factual information gathered through the investigation to determine whether the alleged conduct constitutes harassment or other unlawful discriminatory conduct, giving consideration to all factual information and the totality of the circumstances, including the nature of the verbal, physical, visual or sexual conduct, and the context in which the alleged incidents occurred.
- Set forth the results of the investigation in a written report. The written report includes a description of the circumstances giving rise to the complaint, a summary of the testimony of each witness, an analysis of any relevant data or other evidence collected during the investigation, a specific finding as to whether discrimination did or did not occur with respect to each allegation in the complaint, and any other appropriate information.
- Provide the complainant and accused with a copy or summary of the investigative report within ninety days from the date the RDO received the complaint. The complainant and

Administrative Procedure 3435 Discrimination and Harassment Investigations

respondent are also provided with written notice setting forth the determination of the Chancellor or his/her designee as to whether harassment or other discriminatory conduct did or did not occur, with respect to each allegation in the complaint. The summary also includes a description of actions taken, if any, to prevent similar problems from occurring in the future, the proposed resolution of the complaint, and notice of the parties' rights to appeal to the District's Board of Trustees and the State Chancellor's Office. The results of the investigation and the determination as to whether harassment or other discriminatory conduct occurred are also reported to the accused and the appropriate academic or administrative official(s). Reports to the complainant are prepared so as not to violate any applicable privacy rights of victims or the accused.

Investigation of the Complaint

The District promptly investigates every complaint of harassment or discrimination. No claim of workplace or academic harassment or discrimination shall remain unexamined. As set forth above, where the complainant opts for an informal resolution, the RDO may limit the scope of the investigation as appropriate. The District keeps the investigation confidential to the extent possible, but cannot guarantee absolute confidentiality because the release of some information on a "need-to-know-basis" is essential for a thorough investigation.

Investigation Steps

The District fairly and objectively investigates harassment and discrimination complaints utilizing the following steps:

- Interview complainant(s)
- Interview respondent individual(s)
- Identify and interview witnesses
- Remind all individuals involved of the District's non-retaliation policy
- Consider whether any involved person should be removed from District-controlled areas or grounds pending completion of the investigation
- Review personnel/academic files of all involved parties
- Reach a conclusion as to the allegations and any appropriate disciplinary and remedial actions
- See that all recommended action are carried out in a timely fashion

Timeline for Completion

The District undertakes its investigation promptly and as swiftly as possible. To that end, the investigator completes the above steps, and prepares a written report within 90 days of the District receiving the complaint.

Cooperation Encouraged

All employees, volunteers, vendors, and students have a duty to cooperate with a District investigation into allegations of harassment or discrimination. Lack of cooperation impedes the ability of the District to investigate thoroughly and respond effectively. However, lack of

**Administrative Procedure 3435
Discrimination and Harassment Investigations**

cooperation by a complainant or witnesses does not relieve the District of its obligation to investigate. The District will conduct an investigation if it is discovered that harassment is, or may be occurring with or without the cooperation of the alleged victim(s) and regardless of whether a complaint is filed.

Discipline and Corrective Action

If harassment, discrimination and/or retaliation occurred in violation of policy or procedure, the District takes disciplinary action against the accused and any other remedial action it determines to be appropriate. The action will be prompt, effective, and commensurate with the severity of the offense. If discipline is imposed, the nature of the discipline will not be communicated to the complainant.

Disciplinary action against faculty, staff, and students conforms to all relevant statutes, regulations, and District policies and procedures, including the provisions of any applicable collective bargaining agreements.

The District also takes reasonable steps to protect the complainant from further harassment, and/or discrimination, and to protect the complainant and witnesses from retaliation as a result of communicating the complaint and/or assisting in the investigation. The District takes reasonable steps to ensure the confidentiality of the investigation and to protect the privacy of all parties to the extent possible without impeding the District's ability to investigate and respond effectively to the complaint.

Appeals

If the complainant is not satisfied with the results of the administrative determination, he or she may, within fifteen days, submit a written appeal to the Board of Trustees. The Board reviews the original complaint, the investigative report, the administrative decision, and the appeal. The Board issues a final District decision on the matter within 45 days after receiving the appeal. A copy of the decision rendered by the Board shall be forwarded to the complainant and to the State Chancellor's Office. The complainant shall also be notified of his or her right to appeal this decision.

If the Board does not act, the previous administrative determination is deemed approved and becomes the final decision of the District in the matter.

The complainant has the right to file a written appeal with the State Chancellor's Office within 30 days after the Board issued the final District decision or permitted the administrative decision to become final. Such appeals shall be processed pursuant to the provision of Section 59350 of Title 5 of the California Code of Regulations.

In any case involving employment discrimination, including workplace harassment, the complainant may at any time before or after the issuance of the final decision of the District, file a complaint with the Department of Fair Employment and Housing.

Within 150 days of receiving a formal complaint, the District forwards to the State Chancellor's Office the original complaint, the investigative report, a copy of the written notice to the complainant setting forth the results of the investigation, a copy of the final administrative decision rendered by the Board or indicating the date upon which the decision became final, and a copy of

**Administrative Procedure 3435
Discrimination and Harassment Investigations**

the notification to the complainant of his or her appeal rights. If due to circumstances beyond its control the District is unable to comply with the 150-day deadline for submission of materials, it may file a written request for an extension of time no later than 10 days prior to the expiration of the deadline.

Dissemination of Policy and Procedures

District Policy and Procedures related to harassment are provided to all students and employees and are posted at the colleges.

When hired, employees are required to sign that they have received the policy and procedures, and a signed acknowledgment of receipt is placed in each employee's personnel file. In addition, these policies and procedures are incorporated into the District's course catalogs and orientation materials for new students.

Training

The District provides at least two hours of classroom or other effective interactive training and education regarding sexual harassment to all supervisory employees. All new supervisory employees are provided with training and education within six months of their assumption of a supervisory position. The District provides sexual harassment training and education to each supervisory employee at least every two years.

The training and education required include information and practical guidance regarding the federal and state statutory provisions on the prohibition against and the prevention and correction of sexual harassment, and the remedies available to victims. The training and education also includes practical examples aimed at instructing supervisors on the prevention of harassment, discrimination, and retaliation, and are presented by trainers or educators with knowledge and expertise in the prevention of harassment, discrimination, and retaliation.

Training of all staff is conducted. Training for academic staff emphasizes environmental harassment in the classroom.

In years in which a substantive policy or procedural change has occurred, all District employees attend training updates and/or receive a copy of the revised policies and procedures.

A training program and informational services are made available to all students at least once annually. The student training and informational services include an explanation of the policy, how it works, and how to file a complaint.

Participants in training programs are required to sign a statement that they have either understood the policies and procedures, their responsibilities, and their own and the District's potential liability, or that they did not understand the policy and desire further training.

Board approval date: 1/22/08



UNLAWFUL DISCRIMINATION COMPLAINT FORM
Administrative Procedure 3435

Name: _____
Last
First

Address: _____
Street or P.O. Box
City
State
Zip

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

I am a: Student Employee Other (*please specify*): _____

I wish to complain against/about: _____

District: _____ College: _____

Date of most recent incident of alleged discrimination: _____

(Non-employment related complaints must be filed within one year of the date of the alleged unlawful discrimination. Employment complaints must be filed within six (6) months of the date of the alleged unlawful discrimination.)

I allege discrimination based on the following category protected under Title 5 (*must select at least one*):

- | | | | |
|---|--|--|--|
| <input type="checkbox"/> Age | <input type="checkbox"/> Ethnic Group Identification | <input type="checkbox"/> Physical Disability | <input type="checkbox"/> Retaliation ** |
| <input type="checkbox"/> Ancestry | <input type="checkbox"/> Mental Disability | <input type="checkbox"/> Race | <input type="checkbox"/> Sex (includes harassment) |
| <input type="checkbox"/> Color | <input type="checkbox"/> National Origin | <input type="checkbox"/> Religion | <input type="checkbox"/> Sexual Orientation |
| <input type="checkbox"/> Perceived to be in protected category or associated with those in protected category | | | |

Clearly state your complaint. Describe each incident of alleged discrimination separately. For each incident provide the following information: 1) date(s) the discriminatory action occurred; 2) name of individual(s) who discriminated; 3) what happened; 4) witnesses (if any); and 5) why you believe the discrimination was because of your religion, age, race, sex or whatever basis you indicated above. **If applicable, explain why you believe you were retaliated against for filing a complaint or asserting your right to be free from discrimination on any of the above grounds. (*Attach additional pages as necessary*).

Please state the resolution you would like from the District as a result of your complaint: _____

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

Signature of Complainant
Date: _____

Send original to the District Human Resources Department:

West Hills Community College District
 9900 Cody Street – Coalinga, CA 93210
 Attention: Director of Human Resources