

3002. ADMINISTRATIVE REGULATIONS ON ALLEGATIONS OF
UNLAWFUL DISCRIMINATION

3002.1 The District Officer responsible for ensuring district compliance with the rules and regulations regarding unlawful discrimination shall be the Director of Staff Diversity/Staff Development.

3002.2 Any individual who believes that he/she has been discriminated against, and who at the time of the alleged discrimination was either an employee, student, or applicant of the District may obtain information from the Director of Staff Diversity/Staff Development in seeking redress of the complaint.

3002.3 Definition of Terms

- A. Advisor refers to a student or District employee who is requested by the complainant or respondent to accompany him/her to the hearing(s).
- B. Applicant refers to anyone who has applied for an officially announced vacancy at the college.
- C. Chancellor's Office refers to the Office of the Chancellor of the California Community Colleges.
- D. Complainant refers to the person (or persons) who files the complaint.
- E. Complaint is an allegation that an unlawful discriminatory act has occurred.
- F. Day refers to calendar days.
- G. District Officer refers to the Director of Staff Diversity/Staff Development.
- H. Employee refers to anyone who receives financial remuneration from the District.
- I. Investigator refers to either the District Officer or the external investigator.
- J. Respondent refers to the person (or persons) against whom the complaint is filed.
- K. Student refers to anyone who is enrolled at the college.

3002.4 The District shall provide annual notice of its policy against unlawful discrimination to students and to all employees and applicants.

3002.5 Anyone subjected to unlawful discrimination should pursue the matter through the informal or formal procedures. These procedures provide for the investigation of unlawful discrimination in the District's programs or activities.

3002.6 Informal Complaint Procedures

Generally, the informal procedures afford an opportunity to explore a problem and consider alternative means for its resolution before resorting to the formal procedures.

- A. The District Officer will investigate the charges and make recommendations for resolution of the alleged complaint. To the fullest extent possible the proceedings will be conducted in a manner to protect the confidentiality of all parties.
- B. The informal process must be completed within thirty (30) days of receipt of complaint (Title 5, Section 59328).
- C. The complainant or the respondent may be accompanied by an advisor during the informal process. The complainant or the respondent, if a District unit member, shall have the right to union representation during the informal process.
- D. If the complaint is not resolved and a formal complaint is filed, the process shall proceed to the Formal Complaint Procedures.

3002.7 The District Officer shall make available to the complainant copies of district, state, and national regulations/policies under which the formal complaint may be filed. The complainant may file the formal complaint under the regulations/policies deemed applicable.

3002.8 The District Officer shall make available to all students, employees, and applicants the District forms required for filing a formal complaint under this policy.

3002.9 Formal Complaint Timelines

Formal complaint forms must be filed with the District Officer 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 allegations of unlawful discrimination.

The District Officer shall notify the complainant and respondent in writing within five (5) days of receiving the formal complaint explaining if and how the complaint does not meet the requirements of Sections 3002.2 and 3002.9 of this policy. (Title 5, Section 59332).

In accordance with Title 5, Section 59336, the District has 90 days to render the Superintendent-President decision.

3002.10 Formal Complaint Procedures

The Director of Staff Diversity/Staff Development is the District Officer responsible for receiving complaints pursuant to Title 5, Section 59328.

The complainant must decide whether he/she wants the District Officer or an individual hired externally to investigate the formal complaint and must notify the District Officer in writing of the decision within five (5) days after filing the complaint. Once a procedure is selected it is binding upon all parties.

A list of at least three (3) qualified external investigators will be compiled by the District, CCA, CHI, and CSEA. This list will be mutually agreed upon by the District and its unions and updated every two years. The list will be used by the complainant for selection of an external investigator.

A. The District Officer/External Investigator Procedures:

1. After receiving the request the investigator shall conduct an impartial fact-finding investigation in order to resolve the complaint. The investigation will consist of, if applicable, questioning witnesses, eliciting testimony, collecting information, evaluating evidence, arranging meetings, making recommendations, or taking other appropriate action.
2. Whenever the investigator deems it necessary for an employee or student to participate in the investigation process, the appropriate administrator or the student's instructors shall be notified by the District Officer at least two (2) days prior to the absence, and the request shall be granted without penalty.
3. The investigator shall report his/her findings and recommendation(s) of proposed resolution(s) to the appropriate Vice President for review and approval or disapproval within fifty-five (55) calendar days of the date of receipt of the formal complaint.

B. The results of the formal complaint investigation shall be set forth by the investigator 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; and
4. A specific finding as to whether discrimination did or did not occur with respect to each allegation in the complaint.

C. Vice President Decision; Appeals Process

1. The Vice President shall notify the principal parties and the District Officer of his/her decision within ten (10) calendar days after receiving the investigator's recommendation(s).
2. The complaint shall be considered resolved if the complainant does not file an objection or intent to appeal with the Superintendent-President within ten (10) calendar days after receiving notice of the proposed resolution from the appropriate Vice President.
3. If a formal appeal is filed, the process shall proceed to the Formal Appeals Process.

3002.11 Superintendent-President Appeals Process; Decision

Within ten (10) calendar days of receipt of the Vice President's decision, the complainant, if not satisfied with the disposition of the complaint, may request the Superintendent-President to review the decision. The request must state the reasons for the appeal and the remedy sought. The Superintendent-President shall inform all principal parties and the District Officer of the decision within fifteen (15) calendar days of receipt of appeal.

3002.12 Final District Decision; Appeals Process

Within fifteen (15) calendar days of receipt of the Superintendent-President's decision, the complainant, if not satisfied with the decision may request the Board of Trustees to review the disposition of the complaint. The request shall state the reasons for the appeal and remedy sought. The Board of Trustees constitutes the final level of appeal for the District. The Superintendent-President shall inform all principal parties and the District Officer of the Board of Trustees' decision within forty-five (45) calendar days of the receipt of the appeal. (Title 5, Section 59338)

3002.13 External Appeals Process:

- A. The District Officer shall notify the complainant that he/she may object to the District's final decision by submitting those objections to the Chancellor's Office within thirty (30) calendar days after the Board of Trustees issues the final decision.

- B. If the complaint has been filed pursuant to Government Code Sections 11135-11139.5, the complaint shall be considered resolved and no further action shall be taken if the complainant does not file an objection with the Chancellor's Office within thirty (30) calendar days after receiving the Board of Trustees' final decision.

3002.14 Forward to the Chancellor

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

- A. The original complaint;

- B. The report describing the nature and extent of the investigation conducted by the District as outlined in Section 3002.11 of this policy;

- C. A copy of the administrative determination as to whether discrimination did or did not occur with respect to each allegation in the complaint;

- D. A copy of the final district decision rendered by the Board of Trustees or statement indicating the date on which the administrative determination became final pursuant to Title 5, Section 59338 (a);

- E. A copy of the notice to the complainant informing him/her of his/her right to appeal.

3002.15 Request for Extensions

If the District, for reasons beyond its control, is unable to comply with the 150-day deadline specified in Title 5, Section 59340 for submission of materials to the Chancellor, the District may file a written request that the Chancellor grant an extension of the deadline.

3002.16 During the formal complaint process all communication including complaints, requests for a hearing, decisions, recommendations, and appeals shall be transmitted in writing to all appropriate parties and shall be considered confidential.

- 3002.17 The District Officer shall act as the custodian of all records and materials pertaining to the complaint. Such materials shall be made available only to legally authorized individuals or agencies.
- 3002.18 Records and materials dealing with the processing of a complaint shall not become a part of the personnel or student files of the participants. The complaint material shall be destroyed by the District Officer after a period of three (3) years according to established District procedures (Policy on Personnel Records of Employees - Policy 4004) unless required for additional litigation.
- 3002.19 No individual shall incur any legal or other liability based upon his/her participation in the complaint resolution process.
- 3002.20 The complaint and all pertinent information requested by the Chancellor's Office shall be logged on the "Discrimination Complaint Processing Log" form, if filed, under Government Code Sections 11135-11139.5.