



# ADMINISTRATIVE PROCEDURES

No. 307.2

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MENDOCINO - LAKE COMMUNITY COLLEGE DISTRICT

## DISCRIMINATION COMPLAINT PROCEDURE

### **PURPOSE**

This procedure provides a means through which allegations of unlawful discrimination may be expeditiously resolved, because failure to act may cause damage to an alleged victim. Such complaints may be sensitive in nature, therefore, each step in the complaint procedure will be conducted confidentially, to the extent possible, for all parties involved. Both the complainant and the person being accused will be treated fairly throughout this procedure. The subject of the complaint does not have the right to know who the complainant is. The complainant has the right to pursue the matter with any state or federal enforcement agency at any time. (Title 5, Section 59320)

### **RESPONSIBLE DISTRICT OFFICER**

The Affirmative Action Officer shall serve as the compliance officer and is designated to receive, process, and investigate as appropriate all complaints of unlawful discrimination. Complaints against the Affirmative Action Officer may be forwarded directly to the Superintendent/President. The compliance officer also serves as coordinator for Title IX, ADA, and Section 504 complaints. The compliance officer may assign the actual investigation of complaints to other staff, outside persons, or organizations. Such procedures shall be used whenever the compliance officer is named in the complaint or is implicated by the allegations in the complaint. (Title 5, Section 59324)

### **WHO MAY USE THIS PROCEDURE**

This procedure may be used by anyone who believes he/she has personally suffered unlawful discrimination in the workplace or in a program or activity of the district and any district employee who learns of unlawful discrimination in his/her official capacity.  
(Title 5, Section 59328)

### **INFORMAL RESOLUTION**

When a charge of unlawful discrimination is brought to the attention of the Affirmative Action Officer, he/she will advise the complainant: (1) the complainant need not participate in informal resolution; (2) the procedure for filing a formal complaint; (3) that a complaint may be filed with the Office for Civil Rights or any other applicable state or federal enforcement agency.

The Affirmative Action Officer will undertake efforts to informally resolve the charges. An investigation is not required unless the Affirmative Action Officer determines that one is warranted by the seriousness of the charges. Efforts at informal resolution may continue after a formal, written complaint is filed, however, if one is filed, an investigation will be required unless the matter is resolved and the complaint is dismissed. Any efforts at informal resolution after a formal, written complaint is filed shall not exceed the ninety (90) day period for rendering the administrative determination. (Title 5, Section 59327)

### **REPRESENTATIVES**

Parties involved in a discrimination complaint may be accompanied by a representative. The district's Gender Equity Officer may not serve as a representative for any party to the complaint, but may assist in resolving sexual harassment complaints as requested by the Affirmative Action Officer.

## **FORMAL, WRITTEN COMPLAINT**

1. **Filing a Complaint:** A formal, written complaint shall be filed by one who alleges that he or she has personally suffered unlawful discrimination or by one who has learned of such unlawful discrimination in his or her official capacity. The complaint 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. The complaint shall be filed with the Affirmative Action Officer or the Chancellor of the California Community Colleges. The Affirmative Action Officer will immediately forward a copy of the complaint to the Chancellor, or the Chancellor will immediately forward a copy of the complaint to the Affirmative Action Officer. (Title 5, Sections 59328, 59329, 59330)
  - a. If the district receives a formal, written complaint which does not meet the criteria above, the Affirmative Action Officer will immediately notify the complainant and specify in which requirement the complaint is defective.
2. **Investigation:** Upon receiving a complaint properly filed in accordance with the criteria above, the Affirmative Action Officer will initiate an impartial fact-finding investigation of the complaint and so notify the complainant and Chancellor. The results of the investigation shall be set forth in a written report which shall include at least: a description of the circumstances giving rise to the complaint; a summary of the testimony provided by each witness, including the complainant and any witnesses identified by the complainant in the complaint; an analysis of any relevant data or other evidence collected during the course of 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 information deemed appropriate by the district. (Title 5, 59334)
3. **Administrative Determination:** Within ninety (90) calendar days of receiving a formal complaint, the investigation shall be completed and the following forwarded to the complainant: a copy or summary of the investigative report and a written notice setting forth the determination of the chief executive officer as to whether discrimination did or did not occur with respect to each allegation in the complaint; a description of any actions taken to prevent similar problems from occurring in the future (subject to rights of privacy); the proposed resolution of the complaint; and the complainant's right to appeal to the district governing board. (Title 5, 59336)
4. **Final District Decision/Appeals:** If not satisfied with the results of the administrative determination, the complainant may, within fifteen (15) calendar days, submit a written appeal to the district governing board. The governing board 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) calendar days after receiving the appeal. A copy of the final district decision rendered by the governing board shall be forwarded to the complainant and to the Chancellor. The complainant shall also be notified of his/her right to appeal this decision to the Chancellor. If the governing board does not act within forty-five (45) calendar days, the administrative determination shall be deemed approved and shall become the final district decision in the matter. (Title 5, Section 59338)
  - a. In any case not involving employment discrimination, the complainant shall have the right to file a written appeal with the Chancellor within thirty (30) days after the governing board issues the final district decision or permits the administrative determination to become final. The complainant may, at any time before or after the final district decision is rendered, file a complaint with the Office for Civil Rights or any other applicable state or federal enforcement agency.

- b. 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 or any other applicable state or federal enforcement agency. In addition, in such cases, the complainant may file a petition for review with the Chancellor within thirty (30) days after the governing board issues the final district decision or permits the administrative determination to become final. The Chancellor shall have discretion to accept or reject any such petition for review in employment discrimination cases.
  1. If the Chancellor agrees to accept the case, he/she may attempt to informally resolve the matter; treat the complaint as an allegation that the district has violated the provisions of Title 5, commencing with Section 53000, where applicable; or take any other action deemed appropriate by the Chancellor.
5. **Forward to the Chancellor:** Within 150 calendar days of receiving a complaint, the district will forward to the Chancellor copies of the original complaint; the investigative report; the final district decision if rendered by the governing board (or a statement indicating the date on which the administrative determination became final); the notices sent to the complainant pursuant to Sections 59336 and 58338; and any such other information as the Chancellor may require. (Title 5, Section 59340)
6. **Extensions/Failure to Comply:** If a district, for reasons beyond its control, is unable to comply with the 150-day deadline above, the district may file a written request that the Chancellor grant an extension of the deadline. The request shall be submitted no later than ten (10) days prior to the expiration of the 150-day deadline and shall include 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 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 with the 150-day deadline, including any extension granted, the Chancellor may proceed to review the case based on the original complaint and any other relevant information available. (Title 5, Section 59342)

*Adopted: December 6, 1989*  
*Revised: June 2, 1993*  
*October 16, 1995*  
*July 7, 1999*