

**AP 6430[A] HANDLING COMPLAINTS OF UNLAWFUL DISCRIMINATION,  
HARASSMENT OR RETALIATION**

**References<sup>1</sup>:**

Education Code Sections 66250 et. seq., 66270, 66271.1, 66281.5, 12926;  
Government Code Section 11135-11139.5, 12926, 12950, 12950.1;  
Title 5 Sections 59300 et seq.;  
34 C.F.R. Section 106.8(b)  
20 U.S.C § 1681 et seq.  
Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d)  
Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681)  
Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794)  
Americans with Disabilities Act of 1990 (42 U.S.C. § 12100 et seq.)  
Age Discrimination Act (42 U.S.C. § 6101)  
California Constitution, Art. 1, § 1  
Civil Code § 47  
Penal Code § 422.6 & 422.55  
BP 3410 and BP 3430

**INTRODUCTION AND SCOPE**

Riverside Community College District policies and procedures regarding unlawful discrimination and prohibition of harassment incorporate the legal principles contained in non-discrimination provisions of the California Code of Regulations, Title 5, sections 59300 et seq. as well as other state and federal substantive and procedural requirements. This procedure addresses the reporting, investigation and appeal for complaints of unlawful discrimination and harassment.

Copies of the District's written policies and procedures on unlawful discrimination and prohibition of harassment are posted on the District web site: <http://www.rccd.edu/administration/board/Pages/BoardPolicies.aspx> and are displayed in prominent locations in the administrative buildings at each College campus and in other areas where notices regarding the institution's rules, regulations, procedures, and standards of conduct are posted.

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<sup>1</sup> If the federal statutes cited would result in broader protection of the civil rights of individuals than that broader protection or coverage shall be deemed incorporated by reference into, and shall prevail over conflicting provisions of Title 5, section 59300.

## DEFINITIONS

Applicable definitions are as follows:

- "Appeal" means a request by a complainant made in writing to the Riverside Community College District governing board pursuant to Title 5, section 59338, and/or to the State Chancellor's Office pursuant to Title 5, section 59339, to review the administrative determination of the District regarding a complaint of discrimination.
- "Association with a person or group with these actual or perceived characteristics" includes advocacy for or identification with people who have one or more characteristics of a protected category listed under "Unlawful Discrimination Policy" and Title 5, section 59300, participation in a group associated with persons having such characteristics, or use of a facility associated with use by such persons.
- "Complain" means a written and signed statement meeting the requirements of Title 5, section 59328 that alleges unlawful discrimination in violation of the nondiscrimination regulations adopted by the Board of Governors of the California Community Colleges, as set forth at Title 5, sections 59300 et seq.
- "Days" means calendar days.
- "Gender" includes a person's sex as well as gender identity and gender related appearance and behavior whether or not stereotypically associated with the person's assigned sex at birth.
- "Disability" includes, but is not limited to, all of the following:
  - (1) Having any physical, mental or psychological disorder or condition that limits a major life activity. For purposes of this section:
    - (A) "Limits" shall be determined without regard to mitigating measures, such as medications, assistive devices, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.
    - (B) A disorder or condition limits a major life activity if it makes the achievement of the major life activity difficult.
    - (C) "Major life activities" shall be broadly construed and shall include physical, mental, and social activities and working.
  - (2) Any other disorder, condition or health condition not described in paragraph (1) that requires specialty supportive services.
  - (3) Having a record or history of a physical, mental or psychological disorder or condition described in paragraph (1) or (2), which is known to the District.
  - (4) Being regarded or treated by the District as having, or having had, any physical or mental condition that makes achievement of a major life activity difficult.
  - (5) Being regarded or treated by the District as having, or having had, a mental or psychological disorder or condition that has no present disabling effect, but that may become a mental disability as described in paragraph (1) or (2).

(6) "Mental disability" does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs<sup>2</sup>.

- “District” means the Riverside Community College District or any District program or activity that is funded directly by the state or receives financial assistance from the state. This includes any other organization associated with the District or its college(s) that receives state funding or financial assistance through the District.
- “Responsible District Officer” means the officer identified by the District to the State Chancellor’s Office as the person responsible for receiving complaints filed pursuant to Title 5, section 59328, and coordinating their investigation.
- “Sex” includes, but is not limited to, pregnancy, childbirth, or medical conditions related to pregnancy or childbirth. ‘Sex’ also includes, but is not limited to, a person’s gender, as defined in Section 422.56 of the Penal Code. Discrimination on the basis of sex or gender also includes sexual harassment.
- “Sexual harassment” is unlawful discrimination in the form of unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone from or in the workplace or in the educational setting, and includes but is not limited to:
  - (1) Making unsolicited written, verbal, physical, and/or visual contacts with sexual overtones. (Examples of possible sexual harassment that appear in a written form include, but are not limited to: suggestive or obscene letters, notes, and invitations. Examples of possible visual sexual harassment include, but are not limited to: leering, gestures, display of sexually aggressive objects or pictures, cartoons, or posters.)
  - (2) Continuing to express sexual interest after being informed that the interest is unwelcome.
  - (3) Making reprisals, threats of reprisal, or implied threats of reprisal following a rebuff of harassing behavior. The following are examples of conduct in an academic environment that might be found to be sexual harassment: implying or actually withholding grades earned or deserved; suggesting a poor performance evaluation will be prepared; or suggesting a scholarship recommendation or college application will be denied.
  - (4) Engaging in explicit or implicit coercive sexual behavior within the work environment which is used to control, influence, or affect the employee’s career, salary, and/or work environment.
  - (5) Engaging in explicit or implicit coercive sexual behavior within the educational environment that is used to control, influence, or affect the educational opportunities, grades, and/or learning environment of a student.

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<sup>2</sup> If the Americans with Disabilities Act of 1990 definitions would result in broader protection of the civil rights of individuals with a mental or physical disability, or would include any Medical condition not included within these definitions, then that broader protection or coverage shall be deemed incorporated by reference into, and shall prevail over conflicting provisions of the definitions in Government Code section 12926 and should be included in district policy. (Gov. Code, § 12926(l).)

- (6) Offering favors or educational or employment benefits, such as grades or promotions, favorable performance evaluations, favorable assignments, favorable duties or shifts, recommendations, reclassifications, etc., in exchange for sexual favors.
- (7) Awarding educational or employment benefits, such as grades or duties or shifts, recommendations, reclassifications, etc., to any student or employee with whom the decision maker has a sexual relationship and denying such benefits to other students or employees.
- "Sexual orientation" means heterosexuality, homosexuality, or bisexuality.
- "Unlawful discrimination" means discrimination based on a category protected under Title 5, section 59300 and the other referenced regulations.

### **RESPONSIBLE DISTRICT OFFICER**

The Riverside Community College District has identified the District Compliance Officer to the State Chancellor's Office and to the public as the single District officer responsible for receiving all unlawful discrimination and harassment complaints filed pursuant to Title 5, section 59328, and for coordinating their investigation. The actual investigation of complaints may be assigned to other staff or to outside persons or organizations under contract with the District. Such delegation procedures will be used whenever the officer designated to receive complaints is named in the complaint or is implicated by the allegations in the complaint<sup>3</sup>.

The District will investigate complaints involving acts that occur off campus if they are related to an academic or work activity.

Administrators, faculty members, other District employees, students, and third parties shall direct all complaints of unlawful discrimination to the District Compliance Officer:

Lorraine Y. Jones, M.S.W.  
Human Resources and Employee Relations  
3801 Market Street, 2nd Floor, Riverside CA 92501  
Voice: (951) 222-8039 FAX: (951) 222-8831

Informal charges of unlawful discrimination should be brought to the attention of the responsible District officer, who shall oversee the informal resolution process pursuant to Section 59327.

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<sup>3</sup> The federal Office for Civil Rights (OCR) advises educational institutions to give one official responsibility for oversight and coordination of all sexual harassment complaints to insure consistent practices and standards in handling complaints as well as coordination of record keeping. This will help ensure that the educational institution can and will resolve recurring problems and identify students or employees who have multiple complaints filed against them. The State Chancellor's Office advises that having the responsible district officer, named pursuant to Title 5, section 59324, coordinate both sexual harassment and other unlawful discrimination complaints satisfies OCR's instruction on this subject.

## **UNLAWFUL DISCRIMINATION AND HARASSMENT**

**Non-discrimination (BP 6410)** The District is committed to equal opportunity in educational programs, employment, and all access to institutional programs and activities.

The District, and each individual who represents the District, shall provide access to its services, classes, and programs without regard to ethnic group identification, national origin, religion, age, gender, gender identity, gender expression, race, color, ancestry, sexual orientation, or physical or mental disability, genetic information, or on the basis of these perceived characteristics or based on association with a person or group with one or more of these actual or perceived characteristics.

No District funds shall ever be used for membership, or for any participation involving financial payment or contribution on behalf of the District or any individual employed by or associated with it, to any private organization whose membership practices are discriminatory on the basis of ethnic group identification, national origin, religion, age, gender, gender identity, gender expression, race, color, ancestry, sexual orientation, or physical or mental disability, genetic information, or on the basis of these perceived characteristics or based on association with a person or group with one or more of these actual or perceived characteristics.

**Prohibition of Harassment and Retaliation (BP 6430)** All forms of harassment are contrary to basic standards of conduct between individuals and are prohibited by state and federal law, as well as District policy, and will not be tolerated. The District is committed to providing an academic and work environment that respects the dignity of individuals and groups. The District shall be free of sexual harassment and all forms of sexual intimidation and exploitation. It shall also be free of other unlawful harassment, including that which is based on ethnic group identification, national origin, religion, age, gender, gender identity, gender expression, race, color, ancestry, sexual orientation, or physical or mental disability, genetic information, or on the basis of these perceived characteristics or based on association with a person or group with one or more of these actual or perceived characteristics.

### **RETALIATION**

It is unlawful for anyone to retaliate against someone who files an unlawful discrimination or harassment complaint; someone who refers a matter for investigation or complaint; someone who participates in a complaint investigation; someone who represents or serves as an advocate for an alleged victim or alleged offender, or someone who otherwise furthers the principles of these unlawful discrimination and harassment policies.

All allegations of retaliation will be swiftly and thoroughly investigated. If the District determines that retaliation has occurred, it will pursue all measures within its power to stop such conduct. Individuals who engage in retaliatory conduct are subject to disciplinary action, up to and including termination or expulsion.

## **ACADEMIC FREEDOM**

The District reaffirms its commitment to academic freedom, but recognizes that academic freedom does not permit unlawful discrimination, harassment, or retaliation. To the extent that these policies and procedures are in conflict with the District's policy on academic freedom, the harassment policies and procedures shall prevail. Nothing in District policies and procedures shall be interpreted to prohibit bona fide academic requirements for a specific District program, course or activity.

It is recognized that an essential function of education is a probing of opinions and an exploration of information and ideas that may cause some students discomfort. It is further recognized that academic freedom insures the faculty's right to teach and the students' right to learn. If a faculty member wishes to use sexually explicit materials in the classroom, the District strongly recommends that faculty member work with the District Compliance Officer as well as academic discipline colleagues to assure that sexual harassment regulations are not violated.

When investigating unlawful discrimination or harassment complaints containing issues related to course material, the designated investigator will consult with a group of one to three (1-3) faculty members in that subject area appointed by the Academic Senate with respect to contemporary practices and standards for course content and delivery.

## **INFORMAL/FORMAL COMPLAINT PROCEDURE**

When a person brings charges of unlawful discrimination to the attention of the District Compliance Officer, that officer will:

- (1) Undertake efforts to informally resolve the charges<sup>4</sup>;

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<sup>4</sup> The purpose of the informal resolution process is to allow an individual who believes she/he has been unlawfully discriminated against or harassed to resolve the issue through a mediation process rather than the formal complaint process. Typically, the informal process will be invoked when there is a simple misunderstanding or the complainant does not wish to file a formal complaint. Resolution of an informal complaint may require nothing more than a clarification of the misunderstanding or an apology from the respondent and an assurance that the offending behavior will cease. However, the district is responsible for maintaining a safe and discrimination free educational environment and serious allegations may need to be investigated even if the complaining party considers the matter resolved. In an informal process the district officer shall advise the complainant of his or her rights and responsibilities under both the formal and informal processes. If the complainant declares his or her preference for the informal process, the responsible district officer shall present the complainant with a document that describes the informal/formal process that contains the basics of complainant's allegations of unlawful discrimination. This document will clearly indicate that the complainant opted for the informal resolution process and should be signed and dated by the complainant. The informal resolution process will not be made a predicate to the process and investigation of a formal complaint. If a formal complaint is filed, an investigation must be completed within the time required unless it is voluntarily rescinded by a complainant as a result of a successful informal resolution.

- (2) Advise the complainant that he or she need not participate in informal resolution;
- (3) Inform the person bringing the charges of his or her right to file a formal complaint and explain the procedure for doing so;
- (4) Assure the complainant that he or she will not be required to confront, or work out problems with, the person accused of unlawful discrimination;
- (5) Advise the complainant that he or she may file a non-employment related complaint with the U.S. Department of Education Office for Civil Rights (OCR) where such a complaint is within that agency's jurisdiction.
- (6) If the complaint is employment-related, the complainant should also be advised that he or she may file a complaint with the U.S. Equal Employment Opportunity Commission (EEOC) and/or the California Department of Fair Employment and Housing (DFEH) where such a complaint is within those agencies' jurisdictions.

Efforts at informal resolution need not include any investigation unless the District Compliance Officer determines that an investigation is warranted by the seriousness of the charges. Selecting an informal resolution does not extend the time limitations for filing a formal complaint. Efforts at informal resolution may continue after the filing of a formal written complaint, but after a complaint is filed an investigation is required to be conducted pursuant to Title 5, section 59334, and will be completed unless the matter is informally resolved and the complainant dismisses the complaint in writing. Even if the complainant does dismiss the complaint, the District Compliance Officer may require the investigation to continue if he or she determines that the allegations are serious enough to warrant an investigation. Any efforts at informal resolution after the filing of a written complaint will not exceed the 90-day period for rendering the administrative determination pursuant to Title 5, section 59336.

In employment-related cases, if the complainant files with the Department of Fair Employment and Housing, a copy of that filing will be sent to the State Chancellor's Office requesting a determination of whether a further investigation under Title 5 is required. Unless the State Chancellor's Office determines that a separate investigation is required, the District will discontinue its investigation under Title 5 and the matter will be resolved through the Department of Fair Employment and Housing.

The District will allow for representation where required by law and may allow representation for the accused and complainant in other circumstances on a case-by-case basis.

### **FILING A FORMAL WRITTEN COMPLAINT**

If a complainant decides to file a formal written complaint of unlawful discrimination or harassment against the District, he or she must file the complaint on a form prescribed by the State Chancellor. The approved form is available from the District web site and also at the State Chancellor's website, as follows:

<http://www.rccd.edu/administration/humanresources/Pages/Complaints.aspx>  
[http://www.cccco.edu/our\\_agency/legal/discrimination/tabid/294/default.aspx](http://www.cccco.edu/our_agency/legal/discrimination/tabid/294/default.aspx)

The completed form must be filed with the District Compliance Officer or may be mailed directly to the State Chancellor's Office of the California Community Colleges.

The District Compliance Officer shall immediately forward to the Legal Affairs Division of the State Chancellor's Office every formal written complaint.

Once a complaint is filed and assigned for investigation, the individual(s) accused of engaging in prohibited conduct will be advised of that filing and the general nature of the complaint. This will occur as soon as possible and in a manner that is appropriate under the circumstances. The District will also advise the accused that an assessment of the accuracy of the allegations has not yet been made, that the complaint will be investigated, that the accused will be provided an opportunity to present his/her side of the matter, and that any conduct that could be viewed as retaliatory against the complainant or any witnesses must be avoided.

Upon determining the pending investigation will require interviews of faculty and/or staff, the District Compliance Officer will immediately contact the district Chancellor and/or Provost/Vice Chancellor Educational Services. Immediately, one of those individuals will notify CTA or CSEA as appropriate, as well as the College President.

### **THRESHOLD REQUIREMENTS PRIOR TO INVESTIGATION OF A FORMAL WRITTEN COMPLAINT**

When a formal written complaint is filed it will be reviewed to determine if the complaint meets the following requirements:

- The complaint must be filed on a form prescribed by the State Chancellor's Office.
- The complaint must allege unlawful discrimination or harassment prohibited under Title 5, section 59300 or District policy.
- The complaint must be filed by one who alleges that he or she has personally suffered unlawful discrimination or harassment or by one who has learned of such unlawful discrimination in his or her official capacity as a faculty member or administrator.
- In any complaint not involving employment, the complaint must be filed within one year of the date of the alleged unlawful discrimination or harassment or within one year of the date on which the complainant knew or should have known of the facts underlying the specific incident or incidents of alleged unlawful discrimination.

- In any complaint alleging discrimination in employment, the complaint shall be filed within one hundred-eighty (180) calendar days of the date the alleged unlawful discrimination or harassment occurred, except that this period will be extended by no more than ninety (90) calendar days following the expiration of that hundred-eighty (180) calendar days if the complainant first obtained knowledge of the facts of the alleged violation after the expiration of hundred- eighty (180) calendar days.

Additional information about this initial review of complaints can be found in the Guidelines for Processing Formal Title 5 Unlawful Discrimination Complaints prepared by the State Chancellor's Office<sup>5</sup>.

### **DEFECTIVE COMPLAINT**

If a complaint is found to be defective it will be immediately returned to the complainant with a complete explanation of why an investigation will not be initiated under California Code of Regulations, Title 5, Section 59300 et seq. The notice will inform the complainant that the complaint does not meet the requirements of section 59328, and shall specify in what requirement the complaint is defective. A copy of the notice to the claimant will also be sent to the State Chancellor's Office.

### **NOTICE TO STATE CHANCELLOR OR DISTRICT**

The District Compliance Officer shall immediately forward to the Legal Affairs Division of the State Chancellor's Office every formal written complaint. Similarly, when the State Chancellor's Office receives a complaint a copy will be forwarded to the District.

### **CONFIDENTIALITY OF THE PROCESS**

Investigative processes can best be conducted within a confidential climate. Therefore, the District does not reveal information about such matters except as necessary to fulfill its legal obligations and to assure proper administration of the complaint process.

Potential complainants are sometimes reluctant to pursue a complaint if their names will be revealed. The inability to reveal the name of a complainant or facts that are likely to reveal the identity of the complainant can severely limit the ability of the District to respond. Complainants must also recognize that persons who are accused of wrongdoing have a right to present their side of the matter, and this right may be jeopardized if the District is prohibited from revealing the name of the complainant or facts that are likely to disclose the identity of the complainant.

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<sup>5</sup> The Guidelines for Processing Formal Title 5 Unlawful Discrimination Complaints is a procedural aid for processing formal unlawful discrimination complaints.

If a complainant insists that his or her name not be revealed, the District Compliance Officer should take all reasonable steps to investigate and respond to the complaint consistent with the complainant's request as long as doing so does not jeopardize the rights of other students or employees.

It is also important that complainants and witnesses understand the possibility that they may be charged with allegations of defamation if they circulate the charges outside of the District's process. In general, persons who are participating in a District investigative or disciplinary process that is related to a charge of discrimination are protected from tort claims such as defamation. However, persons who make allegations outside of these processes or who discuss their claims with persons outside of the process may expose themselves to tort charges. Complainants, witnesses, and those accused of discrimination will all be asked to sign a confidentiality acknowledgement statement.

When an investigation reveals the need for disciplinary action, the complainant may wish to have information about what disciplinary actions the District took. However, the privacy rights of the persons involved often prevent the District from providing such information. In student disciplinary actions for sexual assault/physical abuse charges, Education Code section 76234 provides that the victim shall be informed of the disciplinary action, but that the victim must keep the information confidential. Disciplinary actions taken against employees are generally considered confidential<sup>6</sup>.

### **ADMINISTRATIVE DETERMINATION**

In any case not involving employment-related discrimination or harassment, within ninety (90) calendar days of receiving a complaint filed under Title 5, sections 59300 et seq., the District Compliance Officer will forward a copy of the investigative report to the State Chancellor, a summary<sup>7</sup> copy of the investigation report to the complainant and accused, and written notice setting forth all the following to both the complainant and the State Chancellor:

- (a) the determination of the College President as to whether there is probable cause to believe discrimination occurred with respect to each allegation in the complaint;

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<sup>6</sup> Complainants must trust the District to take appropriate action and must understand that the District is generally not at liberty to discuss personnel or student matters, particularly disciplinary matters. In some disciplinary cases, the complainant may be required to testify at a hearing, and would therefore be aware of the proposed disciplinary action.

<sup>7</sup> The summary investigation report shall include all of the following:

- (a) a description of the circumstances giving rise to the complaint;
- (b) a specific finding as to whether there is probable cause to believe that discrimination occurred with respect to each allegation in the complaint;
- (c) a summary and analysis of the relevant evidence (documents, data, or witness testimony) on which the determination rests; and
- (d) any other information deemed appropriate by the district.

- (b) a description of actions taken, if any, to prevent similar problems from occurring in the future<sup>8</sup>;
- (c) the proposed resolution of the complaint; and
- (d) notification of the complainant's right to appeal to the District Board and the State Chancellor.

In any case involving employment discrimination or harassment, within ninety (90) calendar days of receiving a complaint filed under Title 5, sections 59300, et seq., the District Compliance Officer will forward a summary of the investigative report to the complainant and accused, and written notice setting forth all the following to the complainant:

- (a) the determination of the College President as to whether there is probable cause to believe discrimination occurred 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<sup>9</sup>;
- (c) the proposed resolution of the complaint; and
- (d) the complainant's right to appeal to the District Board of Trustees and to file a complaint with the Department of Fair Employment and Housing.

The District will keep these documents on file for a period of at least three years after closing the case, and make them available to the State Chancellor upon request.

Riverside Community College District recognizes the importance of and is therefore committed to completing investigations and resolving complaints as quickly as possible, consistent with the requirements for a thorough investigation.

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<sup>8</sup> If it is determined that discrimination did occur, possible remedies to prevent similar problems from occurring in the future include all the standard District disciplinary actions for students and employees, ranging from undocumented reprimand to termination or expulsion. If formal disciplinary action is inappropriate, other possible remedies include training in the pertinent area(s) of unlawful discrimination, apology, and restricting or forbidding contact between the perpetrator and victim.

<sup>9</sup> *Ibid.*

## COMPLAINANT'S APPEAL RIGHTS

Complainants have appeal rights that they may exercise if they are not satisfied with the results of the District's administrative determination. At the time the administrative determination and investigation summary are mailed to the complainant, the District Compliance Officer shall notify the complainant in writing of his or her appeal rights as follows:

- First level of appeal: The complainant shall be promptly notified in writing that he or she has the right to file an appeal to the District's Board of Trustees within fifteen (15) calendar days from the date of the administrative determination. The District Board of Trustees will review the original complaint, the investigative report, the administrative determination, and the appeal.

The District's Board of Trustees will issue a final District decision in the matter within forty-five (45) calendar days after receiving the appeal. Alternatively, the District's Board of Trustees may elect to take no action within forty-five (45) calendar days, in which case the original decision in the administrative determination will be deemed to be affirmed and shall become the final District decision in the matter. A copy of the final decision rendered by the District's Board of Trustees will be forwarded to the complainant and, in cases not involving employment discrimination, to the State Chancellor's Office.

- Second level of appeal: In cases not involving employment-related discrimination, the complainant shall be promptly notified in writing that he or she has the right to file an appeal with the State Chancellor's Office within thirty (30) calendar days from the date that the District Board of Trustees issues the final District decision or permits the administrative determination to become final by taking no action within forty-five (45) calendar days<sup>6</sup>. The appeal must be accompanied by a copy of the decision of the Board of Trustees or evidence showing the date on which the complainant filed an appeal with the Board of Trustees, and a statement under penalty of perjury that no response was received from the District Board of Trustees within forty-five (45) calendar days from that date.

Complainants must submit all appeals in writing.

In an employment-related case, there is no second level of appeal under Title 5, Section 59300, et seq. The District will advise the complainant that he or she may file a complaint with the Department of Fair Employment and Housing or the U.S. Equal Employment Opportunity Commission.

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<sup>10</sup> The Department of Fair Employment and Housing (DFEH) has final jurisdiction over employment-related cases. Therefore, the State Chancellor's Office has agreed to accept DFEH decisions and does not accept appeals in employment discrimination cases. Title 5, section 59339 has been amended to reflect this arrangement.

## **PROVISION OF INFORMATION TO STATE CHANCELLOR**

In any case not involving employment discrimination, within one hundred-fifty (150) calendar days of receiving a complaint, the District Compliance Officer will forward the following to the State Chancellor:

- A copy of the final District decision rendered by the District Board of Trustees or a statement indicating the date on which the administrative determination became final as a result of taking no action on the appeal within forty-five (45) calendar days.
- A copy of the notice of appeal rights the District sent the complainant.
- Any other information the State Chancellor may require; or

Notify the State Chancellor that the complainant has not filed an appeal with the District governing board and that the District has closed its file.

The District will keep these documents on file for a period of at least three years after closing the case, and in any case involving employment discrimination; make them available to the State Chancellor upon request.

## **EXTENSIONS**

If for reasons beyond its control, the District is unable to comply with the ninety (90) calendar day deadline specified for submission of materials to the complainant and the State Chancellor's Office, the District Compliance Officer will file a written request that the State Chancellor grant an extension of the deadline. In cases not involving employment discrimination, the District Compliance Officer will also request an extension if the District is unable to meet the one hundred-fifty (150) calendar day deadlines specified above for submission of materials to the complainant and the State Chancellor's Office.

The request will be submitted no later than ten (10) calendar days prior to the expiration of the deadlines established by Title 5 in sections 59336 and/or 59340 and will set forth 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 will be sent to the complainant, who shall be notified that he or she may file written objections with the State Chancellor within five (5) calendar days of receipt.

The State Chancellor may grant the request unless delay would be prejudicial to the investigation. In cases involving employment discrimination, the District may assume that the extension has been granted unless the State Chancellor's Office notifies it within fifteen (15) calendar days from the date of the request that the request has been denied. If an extension of the ninety (90) calendar day deadline is granted by the State Chancellor the one hundred-fifty (150) calendar day deadline is automatically extended by an equal amount.

## **RECORD RETENTION**

Unlawful discrimination records will be retained with the District Compliance Officer. Unlawful discrimination records that are part of an employee's employment records may be classified as Class-1 Permanent records and retained indefinitely or microfilmed in accordance with Title 5, California Code of Regulations, Section 59022. Unlawful discrimination records of a student that are deemed worthy of preservation but not classified as Class-1 Permanent may be classified as Class-2 Optional records or as Class-3 Disposable records, to be retained for a period of three years.

Records related to a student discrimination complaint will be deemed worthy of preservation if, at the end of three years after the case is closed, a complaint on similar grounds has been filed against the same employee. In such cases, the records shall continue to be classified as Class 2 records and retained at least until complaints against that particular employee have been resolved.

All such records will be made available to the State Chancellor's Office upon request.

## **EXTERNAL REPORTING OPTION**

Any non-employee who believes that he or she has been unlawfully discriminated against or harassed may file a complaint with California State Community College Chancellor's Office. The State Chancellor's Office web site is:

[http://www.cccco.edu/our\\_agency/legal/discrimination/tabid/294/default.aspx](http://www.cccco.edu/our_agency/legal/discrimination/tabid/294/default.aspx)

Another external agency that will accept discrimination and/or harassment complaints from non-employees is the United States Department of Education Office for Civil Rights ("OCR"). The phone number for OCR is located in the phone book under government agencies.

Charges filed with the OCR are investigated by the OCR.

In the event a complaint is filed with the OCR, and OCR finds that the complaint has merit, the OCR will attempt to negotiate a settlement between the parties. If not settled, OCR may issue a determination on the merits of the case.

Any employee who believes that he or she has been unlawfully discriminated against or harassed by coworkers, supervisors, students or customers, visitors, vendors or others may file a complaint with the California Department of Fair Employment & Housing ("DFEH") or the Fair Employment & Housing Commission ("FEHC"). The phone number for DFEH is located in the phone book under government agencies.

Charges filed with the DFEH are investigated by the DFEH.

In the event a complaint is filed with the DFEH, and DFEH finds that the complaint has merit, the DFEH will attempt to negotiate a settlement between the parties. If not settled, DFEH may issue a determination on the merits of the case.

Where a case is not settled and the DFEH finds a violation to exist, it can prosecute the charging party's case before the FEHC. Legal remedies available through DFEH and FEHC for a successful claim by an applicant, employee, or former employee include possible reinstatement to the former job; award of a job applied for; back pay; front pay; attorney's fees; and under appropriate circumstances, actual damages and/or administrative fines.

In the alternative, DFEH may grant the employee permission to withdraw the case and pursue a private lawsuit seeing similar remedies.

### **NOTICE, TRAINING, AND EDUCATION FOR STUDENTS AND EMPLOYEES**

The Riverside Community College District's Compliance Officer shall make available training to employees and students on the District's unlawful discrimination and harassment policies and procedures. Faculty members, members of the administrative staff, and members of the support staff will be provided with a copy of the District's written policy on unlawful discrimination and harassment at the beginning of the first semester of the college year after the policy is adopted.

All District employees will receive a copy of the unlawful discrimination and harassment policies and procedures upon employment, and training will be made available during the first year of their employment. Because of their special responsibilities under the law, supervisors will undergo mandatory training within six months of assuming a supervisory position and every two years thereafter. In years in which a substantive policy or procedural change has occurred all District employees will receive a copy of the revised policies and procedures.

A training program or informational services will be made available to all students at least once annually. The student training or informational services will include an explanation of the policies, how they work, and how to file a complaint. In addition, a copy of the District's written policies on unlawful discrimination and harassment, as they pertain to students, will be provided as part of any orientation program conducted for new students at the beginning of each semester, or summer session, as applicable.

Office of Primary Responsibility: Vice Chancellor, Human Resources & Employee Relations

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