

**San Francisco Community College District
Policy and Procedures
For
Handling Complaints of Unlawful Discrimination
Under
Title 5 Sections 59300 et seq.
(Revised 10/08)**



Affirmative Action Office
San Francisco Community College District
31 Gough Street., Rm. 9A
San Francisco, CA 94103
(415) 241-2281

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Introduction and Scope

This is the written policy and procedures for filing and processing complaints of unlawful discrimination at San Francisco Community College District. The policy and procedures incorporate the legal principles contained in nondiscrimination provisions of the California Code of Regulations, Title 5, sections 59300 et seq. as well as other state and federal substantive and procedural requirements.

A copy of the written policy on unlawful discrimination will be displayed in the Affirmative Action Office, 31 Gough Street, Room 9A and on the Affirmative Action Office Website. (http://www.ccsf.edu/Offices/Affirmative_Action/)

Copies also will be available on request from the Affirmative Action Office, and printed in full in the Catalog, Policy Manual, and referenced in the schedules.

The policy was adopted by the San Francisco Community College District Governing Board on December 19, 2002, in accordance with the procedures of the Board.

Authority: 20 U.S.C. Section 1681 et seq.; Ed. Code, Section 66270, 66271.1, 66281.5; Gov. Code, Section 11135-11139.5; Cal. Code Regs., tit. 5, Section 59326. Reference: Cal. Code Regs., tit. 5, Section 59300 et seq.; 34 C.F.R. Section 106.8(b).

Definitions

Definitions applicable to the nondiscrimination policies and procedures are as follows:

- "Appeal" means a request by a complainant made in writing to the San Francisco 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.
- "Complaint" 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, section 59300 et seq.
- "Days" means calendar days.
- "District" means the San Francisco 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.
- "Gender" means sex and includes a person's gender identity and gender related appearance and behavior whether or not stereotypically associated with the person's assigned sex at birth.
- "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 orientation" means heterosexually, homosexuality, or bisexuality.

- "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, invitations. Examples of possible verbal 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 unwelcomed.
 - (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.
 - (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.
- "Mental disability" includes, but is not limited to, all of the following:
 - (1) Having any mental or psychological disorder or condition, such as mental retardation, organic brain syndrome, emotional or mental illness, or specific learning disabilities, 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 mental or psychological 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 mental or psychological disorder or condition not described in paragraph (1) that requires specialized supportive services.
 - (3) Having a record or history of a 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 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).
- "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.²
- "Physical disability: includes, but is not limited to, all of the following:
 - (1) Having any physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss that does both of the following:
 - (A) Affects one or more of the following body systems: neurological, immunological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine.
 - (B) Limits a major life activity. For purposes of this section:
 - (i) "Limits" shall be determined without regard to mitigating measures such as medications, assistive devices, prosthetics, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.
 - (ii) A physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss limits a major life activity if it makes the achievement of the major life activity difficult.
 - (iii) "Major life activities" shall be broadly construed and includes physical, mental, and social activities and working.
 - (2) Any other health impairment not described in paragraph (1) that requires specialized supportive services.
 - (3) Having a record or history of a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment 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 condition that makes achievement of a major life activity difficult.
 - (5) Being regarded or treated by the District as having, or having had, a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment that has no present disabling effect but may become a physical disability as described in paragraph (1) or (2).
 - (6) "Physical 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.³
 - "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.

² 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 will be included in district policy. (Gov. Code, Section 12926(1).)

³ *Ibid.*

- Harassment in the form of hostile environment harassment on the basis of any protected category is also prohibited unlawful discrimination.
- "Unlawful discrimination" means discrimination based on a category protected under Title 5, section 59300, including sexual harassment and retaliation.

Authority: Gov. Code, Section 12926; Cal. Code Regs., tit. 5, Section 59311; *Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, Title IX*, Office for Civil Rights, January 19, 2001.

Notice, Training, and Education for Students and Employees

The San Francisco Community College Districts' responsible district officer shall make arrangements for or provide training to employees and students on the District's unlawful discrimination policy 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 at the beginning of the first quarter or semester of the college year after the policy is adopted.

All District employees will receive this training and a copy of the unlawful discrimination policies and procedures 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 annually thereafter. In years in which a substantive policy or procedural position change has occurred all District employees will attend a training update and/or 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 policy, how it works, and how to file a complaint. In addition, a copy of the District's written policy on unlawful discrimination, as it pertains to students, will be provided as part of any orientation program conducted for new students at the beginning of each quarter, semester, or summer session, as applicable.

Authority: Ed. Code, Section 66281.5; Cal. Code Reg., tit. 5, Section 59324 and 59326.

Reference: Cal. Code Regs., tit. 5, Section 59300 et seq.; 34 C.F.R. Section 106.8(b).

Information can also be obtained on the Office of Affirmative Action website:

http://www.ccsf.edu/Offices/Affirmative_Action/

Unlawful Discrimination and Harassment Policy

The policy of the San Francisco Community College District is to provide an educational and employment environment in which no person shall be unlawfully denied full and equal access to, the benefits of, or be unlawfully subjected to discrimination on the basis of ethnic group identification, national origin, religion, age, sex or gender, race, color, ancestry, sexual orientation, or physical or mental disability in any program or activity that is, administered by, funded directly by, or that receives any financial assistance from the State Chancellor or Board of Governors of the California Community Colleges.

Nor shall any such persons be denied full and equal access to, the benefits of, or be subjected to discrimination on the basis of marital status*, medical conditions*, gender identity, domestic partner status*, AIDS/HIV status*, status as a Vietnam-Era veteran*, or status as a lesbian, gay, bisexual, transgender* or questioning* person in any District program or activity.

The policy of the San Francisco Community College District is to provide an educational and employment environment free from unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct or communications constituting sexual harassment.

Employees, students, or other persons acting on behalf of the District who engage in unlawful discrimination as defined in this policy or by state or federal law may be subject to discipline, up to and including discharge, expulsion, or termination of contract.

In so providing, the San Francisco Community College District hereby implements the provisions of California Government Code sections 11135 through 11139.5, the Sex Equity in Education Act (Ed Code, Section 66250 et seq.), Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 2000d), Title IX of the Education Amendments of 1972 (20 U.S.C. Section 1681), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Section 794), the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12100 et seq.) and the Age Discrimination Act (42 U.S.C. Section 6101).⁴

**These categories are not subject to the State Chancellor's jurisdiction.*

Authority: Cal. Code Regs., tit. 5, Section 59300; Ed. Code Section 66250 et seq., 66271.1, 66700, and 70901; Gov. Code Section 11138. Reference: Ed. Code Section 66250 et seq. and 72011; Gov. Code, Section 11135-11139.5; Penal Code Section 422.6 and 422.55; 20 U.S.C. Section 1681; 29 U.S.C. Sections 794 and 794d; 42 U.S.C. Section 6101, 12100 et seq. and 2000d; 36 C.F.R. Section 1194.

Retaliation

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

Authority: 20 U.S.C. Section 1681 et seq.; 34 C.F.R. Section 106; Cal. Code Regs., tit. 5, Section 59300 et seq.; *Revised Sexual Harassment Guidance: Harassment of Students by School Employees, other Students, or Third Parties, Title IX*, Office of Civil Rights, January 19, 2001.

Responsible District Officer

The San Francisco Community College District has identified Linda R. Jackson, Associate Dean of the Office of Affirmative Action to the State Chancellor's Office and to the public as the single District officer responsible for receiving all unlawful discrimination complaints filed

⁴ If the federal statutes cited above 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, as cited in the Policy.

pursuant to Title 5, section 59328, and for coordinating their investigation. 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. 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, and at any other times deemed appropriate by the District responsible officer.⁵

Authority cited: Sections 66271.1, 66700 and 70901, Education Code; and section 11138, Government Code. Reference: Sections 66250 et seq. and 72011, Education Code; and section 11135, Government Code.

Informal/Formal Complaint Procedure⁶

When a person brings charges of unlawful discrimination or harassment to the attention of the District's responsible officer, that officer or designee will:

- (1) Undertake efforts to informally resolve the charges;
- (2) Advise the complainant that he or she need not participate in informal resolution;
- (3) Notify the person bringing the charges of his or her right to file a formal complaint and explain the procedures 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-based complaint with the Office for Civil Rights of the U.S. Department of Education (OCR) where such a complaint is within that agency's jurisdiction.
- (6) If the complaint is employment-related, the complainant will 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 the jurisdiction of those agencies.

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⁵ The 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.

⁶ The purpose of the informal resolution process is to allow an individual who believes she/he has been unlawfully discriminated against or sexually harassed to resolve the issue through an alternative 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, and a letter containing the basics of complainant's allegations of unlawful discrimination. The letter will clearly indicate that the complainant opted for the informal resolution process. 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.

Efforts at informal resolution need not include any investigation unless the responsible District officer or designee 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. 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 or the Equal Employment Opportunity Commission, 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 provide for representation where required by law.

Authority: Cal. Code Regs., tit. 5, Section 59327, 59328, 59334, 59336, and 59339; *NLRB v. Weingarten, Inc.* (1975) 420 U.S. 251.

Filing of Formal Written Complaint

If a complainant decides to file a formal written unlawful discrimination complaint against the District, he or she must file the complaint on the District's Formal Complaint form which is prescribed by the State Chancellor. These approved forms are available from the District. The State Chancellor's form may be obtained from the State Chancellor's website, as follows:

<http://www.ccco.edu/divisions/legal/Discrimination/discrimination.htm>

Please note that the State Chancellor's form is limited to protected categories within the State Chancellor's Office jurisdiction. The completed form must be filed with the District representative or mailed directly to the State Chancellor's Office of the California Community Colleges.

Once a complaint is filed, the individual(s) accused of engaging in prohibited discriminatory conduct should be advised of that filing and the general nature of the complaint. This should occur as soon as possible and 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.

Authority: Cal. Code Regs., tit. 5, Section 59311 and 59328.

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 the District's Formal Complaint Form (which has been prescribed by the State Chancellor's Office) or on the State Chancellor's form, and must be filed with the District Affirmative Action Officer or with the State Chancellor.
- The complaint must allege unlawful discrimination 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 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 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 180 days of the date the alleged unlawful discrimination occurred, except that this period will be extended by no more than 90 days following the expiration of that 180 days if the complainant first obtained knowledge of the facts of the alleged violation after the expiration of 180 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.⁷ See Appendix C.

Authority: Cal. Code Regs., tit. 5, Section 59328.

Defective Complaint

If a complaint is found to be defective the District will immediately notify the complainant and the State Chancellor, that the complaint does not meet the requirements of section 59328, and shall specify in what requirement that complaint is defective.

Authority: Sections 66271.1, 66700 and 70901, Education Code; and Section 11138, Government Code. Cal. Code Regs., tit. 5, Sections 59328, 59332.

⁷ The Guidelines for Processing Formal Title 5 Unlawful Discrimination Complaints is a procedural aid for processing formal unlawful discrimination complaints.

Notice to State Chancellor or District

A copy of all formal complaints filed in accordance with the Title 5 regulations will be forwarded to the State Chancellor's Office immediately upon receipt. Similarly, when the State Chancellor's Office receives a complaint a copy will be forwarded to the District.

Authority: Cal. Code Regs., tit. 5, Section 59330.

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.

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.

If a complainant insists that his or her name not be revealed, the responsible officer or designee 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.

Where 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.⁸

Authority: Cal. Const. Art. I, Section 1; Civil Code Section 47; Ed. Code, Section 76234 and 87740; *Silberg v. Andersen* (1990) 50 Cal. 3d. 205; Revised *Sexual Harassment Guidance:*

Harassment of Students by School Employees, Other Students, or Third Parties, Title IX, Office for Civil Rights, January 19, 2001.

⁸ 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.

Administrative Determination

In any case **not involving** employment discrimination, within 90 days of receiving an unlawful discrimination complaint filed under Title 5, sections 59300 et seq., the responsible District officer will complete the investigation and forward a copy of the investigative report to the State Chancellor, a copy or summary⁹ of the report to the complainant, and written notice setting forth all the following to both the complainant and the State Chancellor.

- (a) the determination of the chief executive officer or his/her designee as to whether there is probable cause to believe discrimination occurred with respect to each allegation in the complaint;
- (b) a description of actions take, if any, to prevent similar problems from occurring in the future;¹⁰
- (c) the proposed resolution of the complaint; and
- (d) the complainant's right to appeal to the District governing board and the State Chancellor.

In any case **involving** employment discrimination, within 90 days of receiving an unlawful discrimination complaint filed under title 5, sections 59300, et seq., the responsible District officer will complete the investigation and forward a copy or summary of the report to the complainant, and written notice setting forth all the following to the complainant:

- (a) the determination of the chief executive officer or his/her designee 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 (see footnote 10);
- (c) the proposed resolution of the complaint; and
- (d) the complainant's right to appeal to the District governing board 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.

Authority: Sections 66271.1, 66700 and 70901, Education Code; and Section 11138, Government Code. Cal. Code Regs., tit. 5, Section 59336.

⁹ It is within the District's discretion to choose not to include the entire investigative report; however, a summary of an investigation report should, at the very least, 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 (document, data, or witness testimony) on which the determination rests; and
- (d) any other information deemed appropriate by the district.

¹⁰ If it is determined that there is probable cause to believe 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.

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 summary is mailed to the complainant, the responsible District officer or his/her designee shall notify the complainant of his or her appeal rights as follows:

- First level of appeal: The complainant has the right to file an appeal of the District's administrative determination to the District's governing board within 15 days from the date of the notice pursuant to section 59336 that sets forth the administrative determination and the complainant's appeal rights. The governing board shall review the original complaint, the investigative report, the administrative determination, and the appeal. Written appeals must be addressed as follows: Board of Trustees, c/o Vice Chancellor of Finance and Administration, San Francisco Community College District, 33 Gough Street, San Francisco, CA 94103.
- The District's governing board will issue a final District decision in the matter within 45 days after receiving the appeal. Alternatively, the District's governing board may elect to take no action within 45 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. In any case **not involving** employment discrimination, a copy of the final decision rendered by the District's governing board will be forwarded to the complainant and to the State Chancellor's Office. In any case **involving** employment discrimination, the district shall promptly forward to the complainant and to the Chancellor a copy of the final decision rendered by the governing board that includes complainant's right to file a complaint with the California Department of Fair Employment and Housing where the case is within the jurisdiction of that agency.
- Second level of appeal: The complainant has the right to file an appeal with the California Community College Chancellor's Office in any case **not** involving employment-related discrimination within 30 days from the date that the governing board issues the final District decision or permits the administrative determination to become final by taking no action within 45 days or from the date of the notice provided whichever is later. The appeal must be accompanied by a copy of the decision of the governing board or evidence showing the date on which the complainant filed an appeal with the governing board, and a statement under penalty of perjury that no response was received from the governing board within 45 days from the date.¹¹

Complainants must submit all appeals in writing.

Authority: Cal. Code Regs., tit. 5, Section 59338 and 59339.

¹¹ 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 DEFH decisions and generally will not accept appeals in employment discrimination cases.

Provision of Information to State Chancellor

In any case **not involving** employment discrimination, within 150 days of receiving a complaint, the responsible District officer will forward the following to the State Chancellor:

- A copy of the final District decision rendered by the governing board or a statement indicating the date on which the administrative determination became final as a result of taking no action on the appeal within 45 days.
- A copy of the notice of appeal rights the District sent the complainant.
- A copy of the complainant's appeal of the District's administrative determination.
- Any other information the State Chancellor may require.

When applicable, the District will notify the State Chancellor that the complainant has not filed an appeal with the District's 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.

Authority: Cal. Code Regs., tit. 5, Section 59338 and 59340.

Extensions

If for reasons beyond its control, the District is unable to comply with the 90-day or 150-day deadlines specified above for submission of materials to the complainant and the State Chancellor's Office, the responsible District officer will file a written request that the State Chancellor grant an extension of the deadline. Where an extension is deemed necessary by the District, it must be requested from the Chancellor regardless of whether or not the case involves employment discrimination. The request will be submitted no later than 10 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 will be advised that he or she may file written objections with the State Chancellor within 5 days of receipt.

The State Chancellor may grant the request unless delay would be prejudicial to the investigation. If an extension of the 90-day deadline is granted by the State Chancellor the 150-day deadline is automatically extended by an equal amount.

Authority: Cal. Code Regs., tit. 5, Section 59342.