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1.0 Discrimination and Harassment Complaints

- 1.1 The Los Rios Community College District and each College shall designate Equity Officers whose responsibilities shall include the investigation and resolution of discrimination and harassment complaints, including complaints of sexual harassment, as identified in District Policies [P-2113](#), [P-2423](#), and [P-2424](#). (Title 5, § 59324) Equity Officers shall have the appropriate qualifications and training to investigate and resolve these complaints.
- 1.2 The complaint shall be filed by a student or employee who alleges that he or she has personally suffered discrimination or harassment, or by an individual who has learned of such discrimination or harassment in his or her official capacity (complainant); for example, a counselor, a supervisor, or an administrator. (Title 5, § 59328) In addition, complaints may be initiated by other individuals or entities, such as a family member, representative, organization, or other third party wishing to file on behalf of an individual or group alleged to have suffered discrimination or harassment.
- 1.3 A complaint shall be filed with the State Chancellor's Office, the District, or the applicable College. (Title 5, § 59328 (b))
- 1.4 The District shall provide annual notice of the District Policy against discrimination and harassment to new employees when they start working, all students, and all current employees.
  - 1.4.1 Posters that contain the basic legal requirements shall be posted in places readily accessible to job applicants and existing employees. Notices may also be distributed by electronic means.
- 1.5 Generally, the Equity Officer for the College at which the reported conduct occurred or where a complaint is filed shall oversee the investigation and resolution of the complaint. For matters occurring at the District Office or other non-college locations, the Equity Officer at the District Office shall usually oversee the investigation and resolution of the complaint. The Associate Vice Chancellor of Human Resources, however, may change the Equity Officer assigned to the matter in the following circumstances:
  - 1.5.1 Where the College or Equity Officer at the District has a conflict of interest.
  - 1.5.2 Where the College or Equity Officer at the District workload requires a change.
  - 1.5.3 Where extenuating circumstances exist. Examples of extenuating circumstances include: a high level manager has been accused of misconduct; complex facts and circumstances exist that require significant time or effort; or other reasons that call for the change in the assignment.

2.0 Complaint Procedures

- 2.1 As soon as possible after the alleged incident, the complainant shall notify the appropriate Equity Officer(s) of the alleged discrimination or harassment.
- 2.2 Following consultation with the Director, Human Resources, the Equity Officer may reject the complaint if:
  - 2.2.1 The complaint is anonymous;
  - 2.2.2 The most recent incident was more than one (1) year ago or more than one hundred eighty (180) calendar days ago for an employment case;
  - 2.2.3 The complaint does not allege discrimination or harassment;
  - 2.2.4 The complaint lacks adequate information on which to conduct an investigation, in which case, the complainant shall be advised of the defect(s). (A complaint that provides sufficient information to state a viable claim of discrimination or harassment shall not be rejected.);
  - 2.2.5 Identical allegations have already been investigated; or
  - 2.2.6 The case does not merit investigation for any other reason as determined by the Associate Vice Chancellor of Human Resources or designee pursuant to California Code of Regulations, Title 5.
- 2.3 If a complaint is rejected, the complainant shall be notified and informed of the deficiency. (Title 5, § 59332)
- 2.4 If the complaint is accepted, the Equity Officer shall:
  - 2.4.1 Advise the complainant that he or she need not participate in informal resolution and that he or she shall not be required to confront, or work out problems with, the person accused of discrimination or harassment (respondent); (Title 5, § 59327)
  - 2.4.2 Notify the complainant of the procedure for filing a complaint with the State Chancellor's Office;
  - 2.4.3 Advise the complainant that he or she may file a complaint with the Office of Civil Rights of the U.S. Department of Education (OCR);
  - 2.4.4 Advise the complainant that he or she may file his or her employment-based complaint with the U.S. Equal Employment Opportunity Commission (EEOC) and/or the California Department of Fair Employment and Housing (DFEH), where the complaint is within the jurisdiction of those agencies;
  - 2.4.5 Give the complainant a copy of the District Discrimination Complaint Procedure Policy and Administrative Regulation (P/R-2423) and the District Sexual Harassment Policy ([P-2424](#)), if appropriate;

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- 2.4.6 Undertake efforts to informally resolve the charges if the complainant so desires;
- 2.4.7 Advise both the complainant and the respondent that retaliation is prohibited by District Policy and the law, against anyone who refers a matter for investigation, files a complaint, participates in an investigation, or represents the complainant or respondent. (Title 5, § 59327)
- 2.5 The Equity Officer shall consider whether interim remedial measures are necessary during the investigation process to assist or protect the parties. Interim remedial measures may include arranging for course schedule changes, issuing no-contact order(s), notifying the complainant of his or her right to avoid the respondent, assisting in obtaining counseling or law enforcement assistance, or obtaining a restraining order. The Equity Officer shall provide written information to the complainant about these options. For employees, interim measures can include a temporary reassignment or placing an employee on administrative leave in compliance with District Policy and the relevant Collective Bargaining Agreement.
- 3.0 Informal Process (Title 5, § 59327)
- 3.1 If the complainant so desires, the Equity Officer shall hold an informal conference with the complainant within seven (7) calendar days from the date the oral or written complaint is filed. Information about the applicable law and rules shall be presented to the complainant. An effort shall be made to resolve the complaint at the informal level. Mediation shall not be used for allegations of sexual violence.
- 3.2 If a resolution of the complaint is not reached or if the complainant disagrees with the recommendation made, then the complainant may follow the resolution procedure outlined in section 4.0 below.
- 3.3 This informal procedure shall generally be completed within ninety (90) calendar days.
- 3.4 If a complaint is accepted for the informal process, the College/District Equity Officer shall notify the Associate Vice Chancellor of Human Resources that the informal process is being used.
- 3.5 Prior to the implementation of any informal resolution, the equity officer shall notify the Associate Vice Chancellor of Human Resources of the proposed resolution and Associate Vice Chancellor of Human Resources shall have the right to direct that the matter proceed to the formal process in cases where the informal resolution is not appropriate.
- 4.0 Formal Process
- 4.1 If the complaint is not resolved satisfactorily at the informal stage or if the complainant chooses not to use the informal process, the complainant may file with the Equity Officer(s) a written statement of the problem and his/her proposed

remedy on the form prescribed by the State Chancellor's Office. This form shall be provided to the complainant by the appropriate Equity Officer(s).

Complainants should be encouraged to use this form; however, the form is not required and complaints shall not be considered defective or rejected based on the failure to file the complaint on the form. In any complaint not involving employment, the formal complaint shall be filed not later than one (1) year from the date on which the complainant knew or should have known of the facts underlying the allegation of discrimination or sexual harassment. In any complaint involving employment, the complaint shall be filed not later than one hundred eighty (180) calendar days from the date on which the complainant knew or should have known of the facts underlying the allegation of discrimination or sexual harassment. (Title 5, § 59328)

- 4.2 The Equity Officer shall forward the formal complaint and all other pertinent information to the College President immediately upon receipt. (Title 5, § 59330)
  - 4.2.1 The formal complaint shall be forwarded to the Equity Officer, who shall notify the State Chancellor's Office and the complainant that the complaint has been filed and that the investigation is being conducted pursuant to California Code of Regulations, title 5, section 59334.
  - 4.2.2 A prompt, thorough and impartial fact-finding investigation of the complaint shall be conducted, which includes meeting with the respondent and interviewing any witnesses to the alleged conduct and other person(s) the investigator determines may have relevant information. To the greatest extent possible, confidentiality shall be maintained. Failure to cooperate in or interference with this investigation may be grounds for appropriate disciplinary action.
  - 4.2.3 During an investigation under this regulation, the complainant and respondent have the right to be assisted by an advisor of their choice at their sole cost, which may include an attorney. The advisor shall not be a witness. The advisor may accompany the complainant or respondent to any meeting with an investigator or a College. The advisor is a silent and non-participating presence who solely observes and provides support during the investigation process. During proceedings, the advisor may speak only to the party by whom he or she was invited. The advisor may not address the Equity Officer, witnesses, or other participants. Any exceptions to this prohibition will be at the sole discretion of the Equity Officer. The Equity Officer has the right at all times to determine what constitutes appropriate behavior on the part of an advisor.
  - 4.2.4 The investigator shall determine by a "preponderance of the evidence" whether there is probable cause to believe discrimination or harassment occurred as to each allegation of the complaint. A preponderance of the evidence means the evidence, when weighed with the evidence opposed to it, has the more convincing force and the greater probability of truth.

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- 4.2.5 It is the District's intent to investigate and resolve the complaint within sixty (60) calendar days from filing of the formal complaint, although this is not always possible given the complexity of the allegations and the workload of the Equity Officers. This investigation shall be completed within ninety (90) calendar days of the receipt of the formal complaint, unless an extension is granted by the State Chancellor's Office. (Title 5, § 59336)
- 4.2.6 The results of the investigation shall be put in a written report, which shall include at least all of the following:
- 4.2.6.1 A description of the circumstances giving rise to the complaint;
  - 4.2.6.2 A summary and an analysis of the testimony provided by each witness, including the complainant and any witnesses provided by the complainant in the complaint, and any statements by the respondent;
  - 4.2.6.3 A summary and an analysis of any relevant data or other non-testimonial evidence collected during the course of the investigation;
  - 4.2.6.4 A specific finding as to whether there is probable cause that discrimination or harassment did or did not occur with respect to each allegation in the complaint;
  - 4.2.6.5 If there is probable cause that discrimination or harassment occurred, the written report should include what action(s) shall be taken to stop it (as consistent with privacy and legal requirements), prevent its reoccurrence, and remedy the effects on the complainant and any others in the College community, as necessary; and
  - 4.2.6.6 Any other information deemed appropriate by the District. (Title 5, § 59334)
- 4.3 Upon completion of the investigation and within the ninety (90) calendar-day timeline and any extension, the District shall forward all of the following to the complainant:
- 4.3.1 A summary of the investigative report; and
  - 4.3.2 A written notice setting forth the following:
    - 4.3.2.1 The determination of the College President as to whether there is probable cause that discrimination, harassment, or sexual harassment did or did not occur with respect to each allegation in the complaint;
    - 4.3.2.2 If there is probable cause that discrimination or harassment

occurred, a description of actions taken, if any, to prevent similar problems from occurring in the future;

4.3.2.3 If there is probable cause that discrimination or harassment occurred, the written report should include what action(s) shall be taken to stop it (as consistent with privacy and legal requirements), prevent its reoccurrence, and remedy the effects on the complainant and any others in the College community, as necessary;

4.3.2.4 The proposed resolution of the complaint; and

4.3.2.5 The complainant's right to submit a written appeal to the Los Rios Community College District Board of Trustees within fifteen (15) calendar days of the receipt of the notice, if the complainant is not satisfied with the results of the administrative determination. (Title 5, §§ 59336, 59338)

4.4 Upon completion of the investigation, and within the ninety (90) calendar day timeline and any extension, the District shall forward a summary of the investigative report to the respondent. In cases of sexual assault, domestic violence, dating violence or stalking, the District shall forward the summary of the investigative report to the respondent at the same time it forwards it to the complainant. The witnesses shall be advised of the conclusion of the investigation but not the results.

4.5 If an appeal is filed, the Board of Trustees shall review the original complaint, the investigative report, the administrative determination, and the appeal, and shall issue a final District decision in the matter within forty-five (45) calendar days after receiving the appeal. (Title 5, § 59338)

4.5.1 Upon receipt of an appeal, the General Counsel is authorized to remand the case back to the Equity Officer for further review if the General Counsel finds that the investigation has not been completed properly. The General Counsel shall notify the complainant and the respondent that the matter has been remanded and that the complainant shall have the right to renew the appeal by submitting a written appeal to the Los Rios Community College District Board of Trustees within fifteen (15) calendar days of the receipt of the notice the investigation has been completed.

4.5.2 On appeal:

4.5.2.1 The Board of Trustees shall review findings of fact for abuse of discretion;

4.5.2.2 The Board of Trustees may review conclusions based upon those facts without regard to the conclusions of the investigative report;

4.5.2.3 The Board of Trustees may review the District's procedural compliance with this regulation without regard to the conclusion of the investigative report;

4.5.2.4 New evidence may not be submitted for the first time on appeal.

4.5.3 In any case not involving employment discrimination, a copy of the final District decision rendered by the Board of Trustees shall be forwarded to the complainant, the respondent and to the State Chancellor's Office. (Title 5, § 59338) In cases of sexual assault, domestic violence, dating violence or stalking, the District shall forward a copy of the final District decision to the respondent at the same time it forwards it to the complainant.

4.5.4 In any case not involving employment discrimination, the complainant shall also be notified of his or her right to appeal this decision to the State Chancellor's Office within thirty (30) calendar days after the Board of Trustees issues the final District decision; or permits the administrative determination to become final by failure to act within forty-five (45) calendar days of receipt of the appeal. (Title 5, § 59339)

## 5.0 Final Notification to State Chancellor's Office

5.1 In any case not involving employment discrimination, the District shall, within one hundred fifty (150) calendar days of receiving a complaint, forward to the State Chancellor's Office the original complaint, the report describing the nature and extent of the investigation conducted by the District, a copy of the notice sent to the complainant (see section 2.5.5 above), a copy of the final District decision rendered by the Board of Trustees or a statement indicating the date on which the administrative determination became final, and any other information the State Chancellor's Office may require. (Title 5, § 59340)

5.2 If the District, for reasons beyond its control, is unable to comply with the timelines required under section 5.1 above, the District may file a written request with the State Chancellor's Office no later than ten (10) calendar days prior to the expiration of the deadline, requesting an extension. A copy of the request shall be sent to complainant with a notice that he or she may file written objections with the State Chancellor's Office within five (5) calendar days of receipt. (Title 5, § 59342)

## 6.0 Documentation and Reporting

6.1 The Equity Officer shall keep a log of all discrimination or harassment complaints and the resolution thereof.

6.2 Responsible employees are those employees who have the authority to take action to redress sexual violence or whom a student could reasonable believe has that authority. All responsible employees, Equity Officers, and Los Rios Community College Police Captains shall report all incidents of sexual discrimination, sexual

harassment, or sexual violence to the Title IX Officer responsible for the District/College location at which the conduct has occurred or has an effect.

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