
Prohibition of Unlawful Discrimination or Harassment

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Reference: ***Education Code Sections 66250, et seq. and 87100, et seq.; Title 5, Section 53000 et seq.***

A. Introduction and Scope

The District is committed to providing an academic and work environment free of unlawful discrimination. This procedure defines unlawful discrimination, including harassment, and other forms of discrimination on campus, and sets forth a procedure for the investigation and resolution of complaints of unlawful discrimination by or against any staff or faculty member or student within the District.

This resolution procedure applies specifically to a complaint of unlawful discrimination, which, as defined below, must be a written and signed statement. Irrespective of whether a complaint is filed, the District will take affirmative steps to address allegations of unlawful discrimination in a manner appropriate to the particular circumstances once it has received notice of such allegations through other means, such as a verbal complaint or an unsigned statement.

No student or employee on the basis of race, color, national origin, ethnic group identification, ancestry, religion (or religious creed), age, sex, gender, gender identity, gender expression, sexual orientation, marital status, physical or mental disability, medical condition, genetic information, military or veteran status, 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, shall be unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to, discrimination under any program or activity that is administered by, funded directly by, or that receives any financial assistance from the Chancellor or Board of Governors of the California Community Colleges or District.

This procedure and the related policy protects students and employees in connection with all the academic, educational, extracurricular, athletic, and other programs of the District whether those programs take place in the District's facilities, a District vehicle, or at a class or training program sponsored by the District at another location.

A copy of these written policies on unlawful discrimination and harassment are readily available and displayed in a prominent location in the main administrative building and other areas where notices regarding the District's rules, regulations, procedures, and standards of conduct are posted, including the District's website.

B. Definitions

Definitions applicable to nondiscrimination policies are as follows:

Age means how old a person is, or the number of elapsed years from the date of a person's birth. (22 California Code of Regulations section 98230(b))

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Appeal means a request by a complainant made in writing to the Shasta-Tehama-Trinity Joint Community College District's 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.

Color or Ethnic Group Identification means the possession of the racial, cultural or linguistic characteristics common to a racial, cultural or ethnic group or the country or ethnic group from which a person or his/her forbears originate. (22 California Code of Regulations Section 98210(b))

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 in Title 5, section 59300 et seq. If otherwise valid, the District will address the merits of a written and signed complaint submitted in a different format, such as a letter or an e-mail, even though it may be procedurally defective under Title 5.

Confidentiality means reasonable efforts will be made to keep a complaint and the results of any investigation confidential. Witnesses shall be informed of the confidential nature of the matter and shall be informed that it would be a violation of this procedure to disclose the complaint or the nature of the investigation to others.

Days means calendar days.

Disability is divided into two categories that include Mental Disability and Physical Disability.

District means the Shasta-Tehama-Trinity Joint 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 organizations associated with the District that receive state funding or financial assistance through the District.

Gender means sex, and includes a person's gender identity.

Gender Expression means a person's gender-related appearance and behavior whether or not stereotypically associated with the person's assigned sex at birth.

General Harassment: Harassment based on race, color, national origin, ethnic group identification, national origin, ancestry, religion (or religious creed), age, sex, gender, gender identity, gender expression, sexual orientation, marital status, physical or mental disability, medical condition, genetic information, military or veteran status, or the perception that a person has one or more of these characteristics is illegal and violates District policy. Gender-based harassment does not necessarily involve conduct that is sexual. Any hostile or offensive conduct based on gender can constitute prohibited harassment. For example, repeated derisive comments about a person's competency to do the job, when based on that person's gender, could constitute gender-based harassment.

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Harassment comes in many forms, including, but not limited to, the following conduct:

1. **Verbal:** Inappropriate or offensive remarks, slurs, jokes or innuendoes based on a person's protected status, including, but not limited to, sex. This may include, but is not limited to, inappropriate comments regarding an individual's body, physical appearance, attire, sexual prowess, marital status, or sexual orientation; unwelcome flirting or propositions; demands for sexual favors; verbal abuse, threats or intimidation of a sexual nature; or sexist, patronizing or ridiculing statements that convey derogatory attitudes about a particular gender.
2. **Physical:** Inappropriate or offensive touching, assault, or physical interference with free movement. This may include, but is not limited to, kissing, patting, lingering or intimate touches, grabbing, pinching, leering, staring, unnecessarily brushing against or blocking another person, whistling, or sexual gestures. It also includes any physical assault or intimidation directed at an individual due to that person's gender, race, national origin, sexual orientation, or other protected status. Physical sexual harassment includes acts of sexual violence, such as rape, sexual assault, sexual battery, and sexual coercion. Sexual violence refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's use of drugs or alcohol. An individual also may be unable to give consent due to an intellectual or other disability.
3. **Visual or Written:** The display or circulation of offensive sexually oriented or discriminatory visual or written material that degrades an individual or group based on gender, race, nationality, sexual orientation or other protected status. This may include, but is not limited to, posters, cartoons, drawings, graffiti, reading materials, computer graphics or electronic media transmissions.
4. **Environmental:** A hostile academic or work environment exists where it is permeated by sexual innuendo, insults, or abusive comments directed at an individual or group based on gender, race, nationality, sexual orientation, or other protected status; or gratuitous comments regarding gender, race, sexual orientation, or other protected status that are not relevant to the subject matter of the class or activities on the job. A hostile environment can arise from an unwarranted focus on sexual topics or sexually suggestive statements in the classroom or work environment. It can also be created by an unwarranted focus on, or stereotyping of, particular racial or ethnic groups, sexual orientations, genders, or other protected statuses. An environment may also be hostile toward anyone who merely witnesses unlawful harassment in his/her immediate surroundings, although the conduct is directed at others. The determination of whether an environment is hostile is based on the totality of the circumstances, including such factors as the frequency of the conduct, the severity of the conduct, whether the conduct is humiliating or physically threatening, and whether the conduct unreasonably interferes with an individual's learning or work.

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Mental Disability includes, but is not limited to, all of the following:

1. Having any mental or psychological disorder or condition, such as intellectual disability, 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. "Major life activities" shall be broadly construed and shall include physical, mental, and social activities, as well as working.
2. Any other mental or psychological disorder or condition not described above (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 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.

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 functions: 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, "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. 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. "Major life activities" shall be broadly construed and includes physical, mental, and social activities as well as working.
2. Having any other health impairment not described in the previous paragraph (1.) that require specialized supportive services.

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3. Having a record or history of a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment described in the previous paragraphs (1.) or (2.), which are 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 paragraphs (1.) or (2.).

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.

Religion means all aspects of religious observance, practice, and belief, including duties of the clergy or elders. A belief is religious if sincerely held and, in the scheme of the believer, holds a place analogous to that filled by the deity of those people whose religion may be more orthodox or more widely accepted. (22 California Code of Regulations section 98220)

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.

Sexual Harassment: In addition to that outlined previously, sexual harassment consists of unwelcome sexual advances, requests for sexual favors, and other conduct of a sexual nature when:

1. submission to the conduct is made a term or condition of an individual's employment, academic status, or progress;
2. submission to, or rejection of, the conduct by the individual is used as a basis of employment or academic decisions affecting the individual;
3. the conduct has the purpose or effect of having a negative impact upon the individual's work or academic performance, or of creating an intimidating, hostile or offensive work or educational environment; or
4. submission to, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through the community college.

This definition encompasses two kinds of sexual harassment:

"Quid pro quo" sexual harassment occurs when a person in a position of authority makes educational or employment benefits conditional upon an individual's willingness to engage in or tolerate unwanted sexual conduct.

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"Hostile environment" sexual harassment occurs when unwelcome conduct based on a person's gender is sufficiently severe or pervasive so as to alter the conditions of an individual's learning or work environment, unreasonably interfere with an individual's academic or work performance, or create an intimidating, hostile, or abusive learning or work environment. The victim must subjectively perceive the environment as hostile, and the harassment must be such that a reasonable person of the same gender would perceive the environment as hostile. A single or isolated incident of sexual harassment may be sufficient to create a hostile environment if it is severe, i.e., a sexual assault.

Sexually harassing conduct can occur between people of the same or different genders. The standard for determining whether conduct constitutes sexual harassment is whether a reasonable person of the same gender as the victim would perceive the conduct as harassment based on sex.

Examples: Harassment includes, but is not limited to, the following misconduct:

- **Verbal:** Inappropriate or offensive remarks, slurs, jokes, or innuendoes based on a person's protected status, including, but not limited to, sex. This may include, but is not limited to, inappropriate comments regarding an individual's body, physical appearance, attire, sexual prowess, marital status, or sexual orientation; unwelcome flirting or propositions; demands for sexual favors; verbal abuse, threats, or intimidation of a sexual nature; or sexist, patronizing, or ridiculing statements that convey derogatory attitudes about a particular gender.
- **Physical:** Inappropriate or offensive touching, assault, or physical interference with free movement. This may include, but is not limited to, kissing, patting, lingering, or intimate touches, grabbing, pinching, leering, staring, unnecessarily brushing against or blocking another person, whistling, or sexual gestures.
- **Visual or Written:** The display or circulation of offensive sexually oriented or other discriminatory visual or written material. This may include, but is not limited to, posters, cartoons, drawings, graffiti, reading materials, computer graphics, or electronic media transmissions.
- **Environmental:** An academic or work environment that is permeated with racially or sexually-oriented talk, innuendo, insults, or abuse not relevant to the subject matter of the class or activities on the job. A hostile environment can arise from an unwarranted focus on sexual topics or sexually suggestive statements in the classroom or work environment. An environment may be hostile if unwelcome sexual behavior or other harassing behavior based on a protected status is directed specifically at an individual or if the individual merely witnesses unlawful harassment in his/her immediate surroundings. The determination of whether an environment is hostile is based on the totality of the circumstances, including such factors as the frequency of the conduct, the severity of the conduct, whether the conduct is humiliating or physically threatening, and whether the conduct unreasonably interferes with an individual's learning or work.

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Consensual Relationships: Romantic or sexual relationships between supervisors and employees, or between administrators, faculty, or staff members and students, are discouraged. There is an inherent imbalance of power and potential for exploitation in such relationships. A conflict of interest may arise if the administrator, faculty, or staff member must evaluate the student's or employee's work or make decisions affecting the employee or student. The relationship may create an appearance of impropriety and lead to charges of favoritism by other students or employees. A consensual sexual relationship may change, with the result that sexual conduct that was once welcome becomes unwelcome and harassing. In the event that such relationships do occur, the District has the authority to transfer any involved employee to eliminate or attenuate the supervisory authority of one over the other, or of a teacher over a student. Such action by the District is a proactive and preventive measure to avoid possible charges of harassment and does not constitute discipline against any affected employee.

Unlawful discrimination means any complaint of unlawful discrimination based on a category protected under Title 5, section 59300, including sexual harassment and retaliation.

C. Responsible District Officer

The Associate Vice President of Human Resources shall be responsible for:

1. implementation of the unlawful discrimination policy and its accompanying personnel procedures;
2. appropriate distribution of policy to administrative staff, employees, and students;
3. receipt of all complaints filed pursuant to this policy; and
4. coordination of investigation of complaints. The Associate Vice President of Human Resources may be contacted at (530) 242-7640, Administrative Building 100, Room 121, 11555 Old Oregon Trail, Redding, CA 96003.

D. Notice, Training, and Education

The Shasta-Tehama-Trinity Joint Community College District's responsible officer shall make arrangements for or provide training to employees and students about the District's unlawful discrimination policy and procedures. Faculty members, administrators, and support staff members will be provided with a copy of the District's written policy on unlawful discrimination, including sexual violence, upon hire and at the beginning of the first quarter or semester of the college year after an updated policy is adopted.

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.

This policy will be posted in prominent places at each school and work site, including the District's website.

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All administrators and supervisors shall be knowledgeable of this policy and their responsibilities for its implementation and shall participate in at least two hours of interactive classroom training and education regarding sexual harassment once every two years.

In addition, employees annually shall receive copies of information sheets regarding unlawful discrimination, including sexual harassment, prepared by the California Department of Fair Employment and Housing, or District-prepared documents which are substantially similar.

E. Retaliation Prohibited

It is unlawful for anyone to retaliate against someone who files an unlawful discrimination 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. The initiation of a complaint of unlawful discrimination, including sexual harassment, will not affect the complainant or witnesses in their future relationship with the District, in employment, compensation, or work assignments, or, in the case of students, grades, class section, or other matters pertaining to their status in any District program.

F. Academic Freedom

The District is committed to academic freedom, but recognizes that academic freedom does not allow any form of unlawful discrimination. It is recognized that an essential function of education is a probing of opinions and an exploration of ideas.

G. Disciplinary Action

1. Employees who act in violation of this policy and/or the law may be subject to disciplinary action up to and including dismissal. Such disciplinary action shall be in accordance with applicable policies, laws, and/or collective bargaining agreements.
2. Students who act in violation of this policy and/or the law may be subject to disciplinary action up to and including expulsion. Such disciplinary action shall be in accordance with District policy and state law.

H. What to Do If You Believe You Have Been Subjected to Unlawful Discrimination or Harassment Including Sexual Harassment

A person who believes that he/she has been subjected to unlawful discrimination, including harassment based on sex or any other protected status, at the Shasta-Tehama-Trinity Joint Community College District may obtain a copy of the District's Unlawful Discrimination Complaint Resolution Procedures at the Human Resources Office, Administrative Building 100, Room 121, 11555 Old Oregon Trail, Redding, CA 96003, (530) 242-7640. Individuals may also obtain a copy of the procedures at the

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Campus Center Building 2000 in the Student Services Office, or from the Shasta College website at:

<http://www.shastacollege.edu/Human%20Resources/FacultyStaff%20Diversity/Pages/5507.aspx>

The District provides both informal and formal complaint resolution procedures. The District is committed to ensuring that persons complaining of unlawful discrimination, including harassment based on sex or any other protected status, will not be subject to retaliation of any kind.

I. Obligations of All Employees

Employees shall report to their immediate supervisor any conduct on the part of other employees or non-employees, such as sales representatives or service vendors, who unlawfully discriminate, including engage in harassment based on sex or any other protected status, and/or retaliate against any District employee, student, or other persons. Immediately following notification to the supervisor, the employee shall submit, in writing, a detailed and specific account of the incident that will be used in investigating the allegations.

All employees shall cooperate with any investigation of an alleged act of unlawful discrimination, including harassment based on sex or any other protected status, conducted by the District or by an appropriate state or federal agency.

No employee of the District shall take any action to discourage a victim of unlawful discrimination, including harassment based on sex or any other protected status, from reporting such an incident.

Because different procedures apply after a formal governmental administrative charge or complaint is filed, any employee receiving such a charge or complaint is directed to deliver it to the Associate Vice President of Human Resources as soon as possible.

J. Unlawful Discrimination Complaint Resolution Procedures

The Shasta-Tehama-Trinity Joint Community College District is adopting these regulations to ensure that its programs and activities, including employment, are available to all qualified persons without regard to race, color, national origin, ethnic group identification, national origin, ancestry, religion (or religious creed), age, sex, gender, gender identity, gender expression, sexual orientation, marital status, physical or mental disability, medical condition, genetic information, military or veteran status,, or because he or she is perceived to have one or more of the foregoing characteristics, or based on association with a person or group with one or more of these actual or perceived characteristics. The District will seek to resolve the complaints in an expeditious manner.

Since failure to report unlawful discrimination, including harassment and retaliation, impedes the District's ability to stop the behavior, the District strongly encourages anyone who believes they are being unlawfully discriminated against to file a

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complaint. The District also strongly encourages the filing of such complaints within 30 days of the alleged incident. While all complaints are taken seriously and will be investigated promptly, delay in filing a complaint impedes the District's ability to investigate and remediate.

All supervisors and managers have a mandatory duty to report incidents of unlawful discrimination, including harassment based on sex or any other protected status, the existence of a hostile, offensive or intimidating work environment, and acts of retaliation.

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

1. Responsible District Officer

- a. The District officer responsible for ensuring District compliance with the rules and regulations adopted by the Board of Governors of the California Community Colleges regarding unlawful discrimination shall be the Associate Vice President of Human Resources. The Associate Vice President of Human Resources shall be responsible for receiving complaints filed pursuant to Title 5, Section 59328 and coordinating their investigation. The actual investigation of complaints may be assigned to other staff or to persons or organizations under contract with the District. The 504, ADA and Title IX Coordinators are responsible to investigate complaints regarding discrimination based on disability and gender, respectively. Whenever the Associate Vice President of Human Resources or other coordinator designated to receive and investigate complaints is named in the complaint or is implicated by the allegations in the complaint, an alternate party shall conduct the investigation. Regulations prohibit retaliation by the employer and its agents if an individual pursues or assists in filing a discrimination complaint. (5 California Code of Regulations section 59324)
- b. Any student, employee, or third party who believes he/she has been unlawfully discriminated against or harassed by a student, employee, or third party in violation of these policy and procedures may file a complaint.
- c. If the complainant contacts an employee other than the responsible District officer, it is the responsibility of the District employee, who has learned of unlawful discrimination in his/her official capacity, to notify the Associate Vice President of Human Resources that a complaint has been received. Any person who believes he/she has been subjected to unlawful discrimination should contact the Associate Vice President of Human Resources at (530) 242-7640, Administration Building 100, Room 121, 11555 Old Oregon Trail, Redding, CA 96003.
- d. The District will post notices of unlawful discrimination that contain the basic legal requirements in places readily accessible to students, job

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applicants, and existing employees, including the District's website. (5 California Code of Regulations section 59326)

- e. Upon request, the Associate Vice President of Human Resources shall make available to all students, job applicants, and employees the complaint form established by the State Chancellor.

2. Informal Resolution

The purpose of the informal resolution is to resolve complaints of unlawful discrimination through informal discussion. Typically, the informal resolution process will be used 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.

When a person feels aggrieved because of conduct that may constitute unlawful discrimination (complainant), he/she should directly inform the person engaging in such conduct (respondent) that the conduct is unwelcome or offensive and should stop. However, if a direct discussion is uncomfortable or otherwise deemed inappropriate by the complainant or if communication with the respondent has failed to resolve the conduct, the complainant should contact the responsible District officer to attempt an informal resolution.

A complainant need not participate in informal resolution prior to filing a formal written complaint of unlawful discrimination, including harassment and/or retaliation.

3. Intake and Processing of Complaint

Upon receiving notice of an unlawful discrimination complaint, the responsible District officer shall:

- a. undertake efforts to informally resolve the charges;
- b. advise the complainant that he/she need not participate in informal resolution and has the right to end the informal resolution process at any time. Mediation is not appropriate for resolving incidents involving sexual violence;
- c. notify the person bringing the complaint of the procedure for filing a formal written complaint of unlawful discrimination on a form prescribed by the California Community Colleges Chancellor's Office. These forms are available from the responsible District officer and on the District's website, and the following URL
<http://extranet.cccco.edu/Divisions/Legal/Discrimination.aspx>.
If otherwise valid, the merits of a written and signed complaint submitted

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in a different format, such as a letter or an e-mail, will be addressed even though it may be procedurally defective under Title 5.

- d. assure the complainant that he/she will not be required to confront the person accused of unlawful discrimination;
- e. advise the complainant that he/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;
- f. advise the complainant that he/she may file an employment-related 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 that agency's jurisdiction;
- g. advise all complainants that they have a right to file a complaint with local law enforcement. The District must investigate even if the complainant files a complaint with local law enforcement. In addition, the District should ensure that the complainants are aware of any available resources, such as counseling, health, and mental health services;
- h. take interim steps to protect a complainant from coming into contact with an accused individual, especially if the complainant is a victim of sexual violence. The responsible District officer should notify the complainant of his or her options to avoid contact with the accused individual and allow students to change academic situations as appropriate. For instance, the District may prohibit the accused individual from having any contact with the complainant pending the results of the investigation. When taking steps to separate the complainant and accused individual, the District shall minimize the burden on the complainant.

Efforts at informal resolution need not include any investigation unless the responsible District officer determines that an investigation is warranted by the seriousness of the charges.

Efforts at informal resolution may continue after the filing of a formal written complaint, but once a formal complaint is filed, an investigation is required to be conducted unless the matter is informally resolved and the complainant dismisses the complaint. (Title 5, section 59334) However, any efforts at informal resolution after the filing of a formal complaint shall not extend the 90 day period for rendering the administrative determination. (Title 5, section 59336)

In employment-related cases, if the complainant also 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 as to whether a further investigation under Title 5 is required. Unless the State Chancellor's Office

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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 and may allow for representation for the accused and complainant in other circumstances on a case-by-case basis.

- a. A person who alleges that he/she has personally suffered non-employment-based unlawful discrimination, or one who has learned of such unlawful discrimination in his/her official capacity (faculty member or administrator) shall meet with the Associate Vice President of Human Resources (or appropriate District officer) within one year of the alleged incident or within one year of the date on which the complainant knew or should have known of the facts underlying the allegation of unlawful discrimination.
- b. A person who alleges that he/she has personally suffered employment-based unlawful discrimination, or one who has learned of such unlawful discrimination in his/her official capacity (faculty member or administrator) shall meet with the Associate Vice President of Human Resources within 180 days of the violation or within 90 days after the expiration of the 180 days if the complainant obtained knowledge of the facts after the expiration of the 180 days.
 - 1) The Associate Vice President of Human Resources shall fill out an "Interview Form for Documenting Unlawful Discrimination" at the meeting or prepare a narrative as soon thereafter as practical.
 - 2) When discussing a complaint, the responsible District officer will ask the complainant to identify the names of the persons involved, the specific nature of the complaint, conditions giving rise to the complaint, dates of the alleged discrimination, kind of discrimination alleged, and a desired remedy or resolution to the complaint.
 - 3) At the meeting, the complainant may be accompanied by a person of his/her choice giving notice to the responsible District officer. The complainant will be informed of the Shasta College policy and procedures on discrimination, the options for remedy, the formal written complaint process, and pertinent timelines.
 - 4) The complainant will be advised that the alleged offender shall be informed of the specific nature of the complaint and given an opportunity to respond to the charges.

The responsible District officer shall then begin the informal complaint resolution procedure, which may include meeting with the complainant, the respondent and witnesses.

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After the responsible District officer determines a possible resolution, he/she shall meet with the complainant to discuss the proposed resolution in an attempt to resolve the matter. If the complainant feels the matter has not been properly resolved, the responsible District officer shall inform the complainant of his/her right to file a formal written complaint. A complainant has the right to file a formal written complaint at any time.

- c. The "Interview Form" shall become part of the official investigation file if the complainant files a formal written complaint. If the matter is resolved at this level, the responsible District officer will determine whether to place a copy of the Interview Form in the student or personnel file belonging to the alleged perpetrator, in accordance with applicable procedures. Information gathered during this process will be kept confidential to the extent possible. Reports and records will be maintained by the responsible District officer.
- d. Established District disciplinary procedures and policies for students and employees shall be used in the event that disciplinary action is necessary under this procedure.

4. Formal Written Complaint

An investigation of alleged unlawful discrimination will be initiated when an individual files a formal written complaint with the Associate Vice President of Human Resources that meets the following requirements:

- a. The complaint is filed by one who alleges that he/she has personally suffered unlawful discrimination or by one who has learned of such unlawful discrimination in his/her official capacity as faculty member or administrator. The complaint may also be filed by a student, family member, or another third party on behalf of another individual or class of individuals who have allegedly suffered unlawful discrimination.
- b. The complaint alleges unlawful discrimination prohibited under Title 5, section 59300.
- c. The complaint is filed with the State Chancellor of the California Community Colleges or with the Shasta Community College Associate Vice President of Human Resources.
- d. The complaint is on the form prescribed by the State Chancellor of the California Community Colleges or, if otherwise valid, a written and signed complaint submitted in a different format, such as a letter or an e-mail.
- e. In any complaint for a non-employment based issue, the complaint is 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

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have known the facts underlying the allegation of unlawful discrimination. Initiation of the informal complaint procedure by the complainant begins the one-year period.

- f. In any complaint alleging discrimination in employment, the complaint is 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.
- g. The District shall promptly investigate complaints of unlawful discrimination, including harassment and/or retaliation, in the workplace or academic environment. This includes complaints involving activities that occur off campus and in connection with the educational, extracurricular, athletic, and other programs of the District, whether those programs take place in the District's facilities, on a District vehicle, or at a class or training program sponsored by the District at another location.

5. Notice to State Chancellor or District

A copy of all written complaints filed in accordance with the Title 5 regulations, in addition to those complaints that are otherwise valid yet procedurally defective because they are filed in a different format, 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. (5 California Code of Regulations, section 59300, et seq.)

6. Complaint Evaluation

If the complaint is defective, it will be returned immediately to the complainant with an explanation of why an investigation could not be initiated under Title 5, section 59300 et seq. In addition to the above listed requirements, a complaint will be returned if it does not indicate whether the complainant is a student, employee, or other; if the complaint is not signed with an original signature; if the complaint does not provide enough information to understand what the complainant believes is discriminatory or who was involved; or if the complainant fails to explain how the alleged unlawful discrimination was due to a protected category or why the complainant believes retaliation occurred for filing a complaint or asserting one's rights.

The complaint need not be investigated if:

- a. the complaint is unintelligible;
- b. the complainant withdraws his/her complaint;
- c. the complaint does not provide sufficient information to proceed with the investigation and/or the complainant fails to cooperate by providing

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additional information or participating in a meeting with District representatives;

- d. an employment-based complaint has been filed with the Department of Fair Employment and Housing (DFEH). The District may forward the DFEH material to the State Chancellor's Office for a determination of whether an independent investigation under Title 5 is necessary. The District may discontinue the investigation unless the State Chancellor indicates that a separate investigation is required;
- e. the District has a court order directing it to prohibit the complainant from entering the campus or participating in an activity or class.
- f. Nexus/Prima Facie Case/Intake Screening: The complainant fails, even after the District requests additional information from the complainant, to allege facts that explain why he/she believes the alleged unlawful discrimination was because of a protected category or why the complainant believes he/she was retaliated against for filing a complaint or asserting his/her rights. (For example, if a complaint alleges that the grade a student received in a course was a result of discrimination based on gender, the complaint must state facts to support this claim, such as no person of the complainant's gender received a passing grade in the class. The mere assertion of discrimination is not enough to trigger an investigation under Title 5.) The question is whether the facts alleged by the complainant, assuming they were to be proved true, would tend to suggest that unlawful discrimination might have occurred. If not, the complaint should be dismissed for failing to state a prima facie case.

7. Complaint Processing

A formal written complaint should state the name, address and telephone number of the complainant, the date of the alleged unlawful discrimination, the name or names of the respondent(s), a detailed statement that describes the incident and how it occurred, and the names, addresses, and telephone numbers of any person or persons who witnessed the incident.

Upon receiving a complaint which is properly filed in accordance with Title 5, section 59300, the Associate Vice President of Human will commence an impartial fact-finding investigation of the complaint and notify the complainant and Chancellor that he/she is doing so.

The District will fairly and objectively investigate complaints of unlawful discrimination, including harassment based on sex and any other protected status and/or retaliation. Employees designated to serve as investigators under this policy shall have adequate training on what constitutes unlawful discrimination and sexual harassment and violence, and shall understand how the District's complaint procedures operate. The investigator may not have any real or

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perceived conflicts of interest and must be able to investigate the allegations impartially.

When the District evaluates the complaint, it shall do so using a preponderance of the evidence standard. Thus, after considering all the evidence it has gathered, the District will decide whether it is more likely than not that unlawful discrimination or harassment has occurred.

8. Confidentiality

Investigative processes can best be conducted within a confidential climate, and the District does not reveal information about such matters except as necessary to fulfill its legal obligations. However, 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/her name not be revealed, the responsible District 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.

When determining whether to maintain confidentiality, the District may weigh the request for confidentiality against the following factors: the seriousness of the alleged harassment; the complainant's age; whether there have been other harassment complaints about the same individual; and the accused individual's rights to receive information about the allegations if the information is maintained by the District as an "educational record" under the Family Education Rights and Privacy Act (FERPA), 20 U.S.C. section 1232g; 34 C.F.R. Part 99. The District will inform the complainant if it cannot maintain confidentiality.

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 investigation or disciplinary process that is related to a charge of unlawful 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 unlawful discrimination will all be asked to sign a confidentiality agreement.

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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.

Authority: Cal. Const. Art. I, Sect. 1; Civil Code Sect. 47; Ed. Code, sections 76234 and 87740; *Silberg v. Anderson* (1990) 50 Cal.3d. 205; *Guidance on Addressing Sexual Harassment/Sexual Violence* (Apr. 4, 2011); *Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, Title IX* (Jan. 9, 2001), Office for Civil Rights, U.S. Department of Education. ,

9. Investigation

The Associate Vice President of Human Resources shall begin the investigation procedure that shall include interviews with all individuals reasonably believed to have relevant information, including the complainant and respondent, any witnesses to the conduct, and victims of similar conduct by the respondent that the investigator reasonably believes may exist. Complainant and respondent shall be allowed to submit evidence to the responsible District officer or to the investigator assigned that is relevant to the allegations. In determining whether the alleged conduct constitutes unlawful discrimination, the responsible District officer will look at the record as a whole and the totality of the circumstances, including the nature of the alleged unlawful discrimination and the context in which the alleged incidents occurred.

District Investigation (5 California Code of Regulations section 59300 et seq.). The results of the investigation shall be set forth in a written report which shall include the following:

- a. description of the circumstances giving rise to the complaint;
- b. summary of the testimony provided by each witness, including the complainant and witnesses identified by the complainant in the complaint;
- c. analysis of relevant data or other evidence collected during the course of the investigation;
- d. specific findings as to whether there is probable cause to believe that discrimination did or did not occur with respect to the allegations in the complaint; and
- e. a description of the actions the District will take to prevent similar conduct, the proposed resolution of the complaint, the complainant's right

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to appeal to the District's governing board, and, if the complainant is a student, the right to appeal to the State Chancellor. If the complainant is an employee, the report shall include the right to file an administrative complaint with the Department of Fair Employment and Housing. The report may contain any other appropriate information.

NOTE: Authority cited: Government Code, section 11138; Education Code, sections 66700 and 70901. Referenced: Government Code, sections 11135, 11136, and 11138.

The report shall be considered a confidential document not subject to disclosure and shall be submitted to the District Superintendent for final administrative determination.

10. Administrative Determination

Within 90 days of receiving a complaint, the District shall complete its investigation and forward a copy of the investigative report to the State Chancellor, a copy or a summary of the report to the complainant, and written notice setting forth the following to both the complainant and the State Chancellor:

- a. the determination of the District Superintendent 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;
- c. the proposed resolution of the complaint; and
- d. the complainant's right to appeal to the District's governing board and the State Chancellor.

NOTE: Authority cited: Government Code Section 11138; Education Code Sections 66700 and 70901. Referenced: Government Code Sections 11135, 11136, and 11138.

Authority: (5 California Code of Regulations Section 59336)

11. Corrective Action

If unlawful discrimination, including harassment based on sex or any other protected status and/or retaliation, occurred in violation of the policy or procedure, the District shall take disciplinary action against the accused and any other remedial action it determines to be appropriate. The action will be prompt, effective, and commensurate with the severity of the offense. Remedies for the complainant might include, but are not limited to:

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- a. providing an escort to ensure that the complainant can move safely between classes and activities;
- b. taking steps to ensure that the complainant and alleged perpetrator do not attend the same classes or work in the same work area;
- c. preventing offending third parties from entering campus;
- d. providing counseling services;
- e. providing medical services;
- f. providing academic support services, such as tutoring;
- g. arranging for a student complainant to retake a course or withdraw from a class without penalty, including ensuring that any changes do not adversely affect the complainant's academic record; and
- h. reviewing any disciplinary actions taken against the complainant to see if there is a causal connection between the harassment and the misconduct that may have resulted in the complainant being disciplined.

The District shall also take reasonable steps to protect the complainant from further unlawful discrimination, including harassment based on sex or any other protected status, and to protect the complainant and witnesses from retaliation as a result of communicating the complaint and/or assisting in the investigation. The District will ensure that complainants and witnesses know how to report any subsequent problems, and should follow-up with complainants to determine whether any retaliation or new incident of unlawful discrimination, including harassment based on sex or any other protected status, have occurred. The District shall take reasonable steps to ensure the confidentiality of the investigation and to protect the privacy of all parties to the extent possible without impeding the District's ability to investigate and respond effectively to the complaint.

12. Complainant's Appeal Rights

If the District imposes discipline against a student or employee as a result of the findings in its investigation, the students or employee may appeal the decision using the procedure for appealing a disciplinary decision.

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/her appeal rights as follows:

- a. First level of appeal: The complainant has the right to file an appeal to the District's governing board within 15 days from the date of the

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administrative determination. The District's governing board will review the original complaint, the investigative report, the administrative determination, and the appeal.

- b. 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. 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.
- c. 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. Complaints that are procedurally defective under Title 5 do not have the right to file an appeal to the Chancellor's Office.

Complainants must submit all appeals in writing.

Authority: (5 California Code of Regulations, sections 59338 and 59339)

13. Forward to State Chancellor

Within 150 days of receiving a complaint, the District will forward the following to the State Chancellor:

- a. the original complaint;
- b. the report describing the nature and extent of the investigation conducted by the District;
- c. 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;
- d. a copy of the notice of appeal rights to the complainant required; and
- e. such other information as the State Chancellor may require.

Authority: (5 California Code of Regulations Sections 59338 and 59340)

14. Extensions

If the District, for reasons beyond its control, is unable to comply with the 90-day or 150-day deadline specified in Section 59340 for submission of materials to

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the complainant and the State Chancellor, the District may file a written request that the State Chancellor grant an extension of the deadline. The request shall be submitted no later than ten (10) days prior to the expiration of the deadline established pursuant to Section 59336 and/or 59340 and shall 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 shall be sent to the complainant who may file written objections with the State Chancellor within five (5) days of receipt.

The State Chancellor may grant the request unless delay would be prejudicial to the complainant. 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. (5 California Code of Regulations, section 59342)

15. Impact of Administrative Determination

If the investigation reveals that unlawful discrimination has occurred, the District shall take appropriate action to ensure that the discrimination ceases and will not recur. Actions taken in response to sustained allegations of unlawful discrimination, including harassment based on sex or any other protected status and/or retaliation, against an employee or officer may include reassignment, transfer, termination, or other disciplinary action as appropriate.

Unlawful discrimination shall be deemed to constitute just and reasonable cause for disciplinary action and shall be deemed to be a violation and refusal to obey the school laws of California or reasonable regulations for the governance of the District under Education Code Section 87732.

The respondent(s) will be warned that appropriate action shall be taken if further acts of unlawful discrimination, including harassment based on sex or any other protected status and/or retaliation, occur.

16. Relationship to Other Enforcement Mechanisms

The District's unlawful discrimination policies and procedures are intended to supplement, and not replace, any applicable state and federal laws and regulations. Individuals may file complaints of unlawful discrimination with other state and federal governmental agencies:

California Department of Fair Employment and Housing
1515 Clay Street, Suite 701
Oakland, CA 94612-5212
800-884-1684

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U.S. Department of Education, Office for Civil Rights
50 Beale Street, Suite 7200
San Francisco, CA 94105-1813
415-486-5555

California Community College Chancellor's Office
1102 Q Street
Sacramento, CA 95814
916-445-8752

Equal Employment Opportunity Commission
350 The Embarcadero, Suite 500
San Francisco, CA 94105-1260
800-669-4000

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INTERVIEW FORM FOR DOCUMENTING UNLAWFUL DISCRIMINATION INCLUDING HARASSMENT

NAME _____ DEPARTMENT/DIVISION _____

DATE / MAIL STATION _____

WORK PHONE _____ SUPERVISOR _____

COMPLAINT ISSUE OR EVENT: _____

NOTES:

RESOLUTION SOUGHT BY COMPLAINANT: _____

	NAME	WORK PHONE
POSSIBLE WITNESS:	_____	_____
	_____	_____
	_____	_____
	_____	_____

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INTERVIEW FORM FOR DOCUMENTING UNLAWFUL DISCRIMINATION OR HARASSMENT

ACTIONS TAKEN: _____

RESOLUTION: _____

CLOSING DATE: _____

APPROXIMATE TIME SPENT: _____

COUNSELOR/INVESTIGATOR: _____

Board Reviewed 12/13/06
Board Reviewed 1/17/07
Board Reviewed 6/13/12
Board Review Revisions 6/11/14
Reviewed by the Ad Hoc Committee on Board Policy 4/13/16
Board Reviewed Revisions 4/13/16