



UNLAWFUL DISCRIMINATION AND SEXUAL HARASSMENT: COMPLAINT AND INVESTIGATION PROCEDURES FOR EMPLOYEES AND STUDENTS

This booklet includes District policies, principles, procedures and required forms for use in submitting and processing employee and student complaints of unlawful discrimination and sexual harassment.

Additional copies available:

- > Employee Relations department link on the Peralta Community College District website at
- > Employee Relations department, EEO Officer, District office located at 333 E. 8th St., Oakland, CA 94606
- > Vice President of Student Services at College of Alameda, Laney, Merritt and Berkeley City College

The following sections are included in this booklet:

Section Title	Page #
Non-Discrimination Policy	2
Equal Employment Opportunity Policy	2
Sexual Harassment Policy	2
Responsible District Officers	4
Confidentiality of the Process	4
Procedural Options Overview	5
No Retaliation	5
Academic Freedom	5
Required Noticing	6
Training and Education	6
INFORMAL COMPLAINT PROCEDURES (and REQUIRED Form)	8
FORMAL COMPLAINT PROCEDURES (and REQUIRED Form)	13

UNLAWFUL DISCRIMINATION AND SEXUAL HARASSMENT: COMPLAINT AND INVESTIGATION PROCEDURES FOR EMPLOYEES AND STUDENTS

BOARD POLICY: NON-DISCRIMINATION

The Peralta Community College District is committed to providing a workplace free of unlawful discriminatory harassment or discrimination. In keeping with this commitment, the District expressly prohibits discrimination and discriminatory harassment in its programs, activities, work and educational environments, on the basis of certain personal characteristics including ethnic group identification, race, color, creed, national origin, sex (including pregnancy, childbirth or related medical conditions, and a strict prohibition against sexual harassment), religion, age, physical or mental disability, marital status, sexual orientation, transgender status at any stage, status as a special disabled or Vietnam-era veteran, medical conditions (cancer related or HIV positive, including AIDS/ARC), ancestry, citizenship, political affiliation, family care status, or any other characteristics prohibited by law.

The District strongly disapproves of and will not tolerate discriminatory harassment or discrimination of employees by administrators, supervisors or co-workers. Similarly, the District will not tolerate discriminatory harassment or discrimination by its employees or non-employees with whom the District has a business, service or professional relationship. The District will also attempt to protect employees from discriminatory harassment and discrimination by non-employees in the workplace.

The District prohibits retaliation against any individual who files a complaint or who participates in a discrimination or discriminatory harassment inquiry.

EQUAL EMPLOYMENT OPPORTUNITY POLICY

In addition to its policy on nondiscrimination, the District complies with the spirit and laws related to Equal Employment Opportunity for all of its employees and students. Pursuant to Title 5, California Code of Regulations §53001(c), "Equal Employment Opportunity" (EEO) means that all individuals have a full and fair opportunity to participate in all educational programs, services and activities; to compete, based on their qualifications, for hiring and promotion, and to enjoy the benefits of employment and educational opportunities with Peralta Community College District.

It is in the District interest that equal employment opportunity exists at all levels, job categories, instructional, and student services programs and services. The District ensures equal employment opportunity by creating an environment which fosters cooperation, acceptance, democracy, free expression of ideas and openness to men and women, persons with disabilities, and individuals from all ethnic and other groups protected from discrimination.

SEXUAL HARASSMENT POLICY

It is the policy of Peralta Community College District to take all reasonable steps to provide an educational and work environment that is free of discrimination and sexual harassment in all of its programs, services and activities. The District takes all reasonable steps to prevent discrimination and sexual harassment from occurring, and if it does occur, will stop any further harassment and correct any effect of it on District students and employees.

The District recognizes that sexual harassment is a form of sex discrimination, and is committed to employee orientation and training regarding District policies and complaint procedures; conducting prompt and full

investigations of allegations; and committed to taking effective corrective action if the harassment allegations are proven.

Sexual harassment is defined as unwelcome conduct of a sexual nature or based on sex; gender harassment; and harassment based on pregnancy, childbirth or related medical conditions. The definition of sexual harassment includes many forms of offensive behavior, including harassment of a person of the same gender as the harasser. There are two categories of sexual harassment:

Quid Pro Quo harassment that occurs when an individual of authority makes educational or employment benefits conditional upon another person's willingness to engage in, or tolerate unwanted sexual conduct. Examples of Quid Pro Quo sexual harassment can include, but are not limited to the following: offering favors of educational or employment benefits such as transfers/reassignments, reference letters, better course grades, more favorable shifts, assignments or job duties; preferred room assignments or other work locations, equipment or materials, in exchange for sexual favors or tolerance of sexually-charged behaviors.

Hostile Work Environment, or "third party" harassment that occurs when unwelcome conduct based on sex 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 work or learning environment. The victim must subjectively perceive the environment as hostile, and the harassment must be such that a reasonable person of the same person of the same gender would perceive the environment as hostile. Examples of Hostile Work Environment can include, but are not limited to the following: unwanted sexual advances; actual or threatened retaliation; leering; making sexual gestures or displaying sexually suggestive objects, pictures, cartoons, or posters; making or using derogatory comments, epithets, slurs, or jokes; sexual comments including graphic comments about an individual's body; sexually degrading words used to describe an individual; or suggestive or obscene letters, notes, or invitations; physical touching or assault, as well as impeding or blocking movements.

Consensual Relationships

Romantic or sexual relationships between two individuals are inappropriate and strongly discouraged when one of the individuals has evaluative and/or direct supervisory responsibilities over the other, including responsibilities for grading, counseling, and/or other authority or provision of academic services, because of the potential conflict of interest.

A consensual relationship may cause an appearance of impropriety; lead to third party charges of favoritism, and/or negatively impact the productivity and morale of others who observe and must interact with the two parties with the learning or workplace environments. Such relationships may change, with the result that sexual conduct that was once welcome can become unwelcome and harassing.

Prompt and appropriate disciplinary action will be taken against any individual whose behavior is proven to constitute sexual harassment, and the District will insure that any harm resulting from that harassment will be promptly corrected.

RESPONSIBLE DISTRICT OFFICERS

Peralta Community College District has identified the following individuals to the State Chancellor's Office and to the public as the Officers responsible for receiving all unlawful discrimination complaints, including sexual

harassment complaints, filed pursuant to Title 5, California Code of Regulations §59328, and for coordinating their investigation:

Category	Responsible Officer	Officer Location
All Employee Complaints	District Equal Opportunity Officer	Employee Relations Office District Administration Building 333 – East 8 th Street, Oakland CA 94606 Telephone: 510-466-7252
All Student Complaints	Vice-President of Student Services	Vice-President of Student Services located at: 1. College of Alameda 2. Laney College 3. Merritt College 4. Berkeley City College

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.

CONFIDENTIALITY OF THE PROCESS

Complaint investigation processes are more effectively conducted within a confidential climate; therefore, Responsible District Officers do not reveal information, received either verbally or in writing about such matters except as necessary to fulfill District legal obligations. The District is obligated to maintain all complaint forms, interview notes, documentation and other written materials as confidential records. Definition

Complainants and Respondents are advised by the Responsible District Officer about the confidentiality of the process and of their right to representation throughout the complaint and investigation process. Complainants and Respondents may elect to disclose to their respective representatives, as needed, written and/or verbal information included as part of the process.

In order to foster an educational and work environment that is considered safe and one that is open to receiving input and complaints regarding unlawful discrimination from students and employees, written complaints will be maintained as confidential working papers by the District Officer who is conducting the investigation. The written complaint will be used by the Officer to summarize the allegations for the Respondent

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 process. In general, participants in a District investigation or disciplinary process related to a charge of discrimination are protected from tort claims such as defamation. Persons who make allegations outside of these processes or who discuss their claims with persons outside of the process may expose themselves to tort charges. Complainants, witnesses, and those accused of discrimination will all be asked to sign a confidentiality acknowledgement statement.

When an investigation reveals the need for disciplinary action, the complainant may wish to receive notice about what disciplinary actions were undertaken by the District; however, the privacy rights of the Respondent (accused) and other persons involved prevent the District from providing such information.

Disciplinary actions taken against employees are considered confidential as part of the employee file and permanent record. It is recognized that in some disciplinary cases, the Complainant may be required to testify at a hearing and would thereby become aware of the proposed disciplinary action. In such cases, the Complainant and other hearing participants would be required to keep the information confidential.

In student disciplinary actions for sexual assault/physical abuse charges, the California Education Code provides that the victim shall be informed of the disciplinary action, but that the victim must keep the information confidential.

PROCEDURAL OPTIONS OVERVIEW

Individuals who believe they have been unlawfully discriminated against or sexually harassed, persons who have learned of the unlawful discrimination or sexual harassment, including a faculty member, administrator, student, family member or third party, have the right to either try to resolve the issue through a mediation process coordinated by the Responsible District Officer, or to file a formal complaint that includes a full investigation. The Informal and Formal Complaint Procedures are included in this document, and are also available on the Human Resources website at the link: <http://web.peralta.edu/hr/files/2010/09/Complaint-and-Investigation-Procedures-for-Employees-and-Students-Unlawful-Discrimination-and-Sexual-Harassment2.pdf>.

Employment-related Claims:

Individuals who have unlawful discrimination or sexual harassment claims that are employment related may elect to file a complaint with the United States Equal Employment Opportunity Commission (EEOC) and/or with the California Department of Fair Employment and Housing (DFEH), subject to that agency's jurisdiction. When a complaint is filed with either EEOC or DFEH, the District has the option of discontinuing its investigation unless otherwise advised by the California Community Colleges State Chancellor's Office.

Non-Employment related Claims:

Individuals who have unlawful discrimination or sexual harassment claims that are non-employment related may elect to file a complaint with the Office for Civil Rights of the United States Department of Education (OCR) where such a complaint is within that agency's jurisdiction.

The Responsible Officers are accountable for providing Claimants with a copy of the Informal and Formal Complaint Procedures; the addresses and other contact information for the applicable outside agencies; and for advising Claimants of their rights and responsibilities in filing claims.

NO RETALIATION

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, represents or serves as an advocate for an alleged victim or alleged offender, or who otherwise furthers the principles of the unlawful discrimination policy.

Complainants, Respondents, witnesses and other participants in investigations, both formal and informal, will be advised against retaliation as part of this process, and will be advised that retaliation will lead to disciplinary action, up to and including dismissal from District employment or expulsion (students).

ACADEMIC FREEDOM

Peralta Community College District reaffirms its commitment to academic freedom, but recognizes that academic freedom does not allow any form of unlawful discrimination. The District recognizes that an essential contribution to education is a probing of opinions and an exploration of ideas that may cause some students

discomfort. The District further recognizes that academic freedom insures the faculty's right to teach and the student's right to learn. These procedures should not be interpreted to prohibit bona fide academic requirements for a specific District program, course or activity.

When investigating complaints of unlawful discrimination containing issues of academic freedom, the District Officer will consult with a faculty member appointed by the District Academic Senate regarding contemporary practices and standards for course content and delivery.

REQUIRED NOTICING

Pursuant to applicable sections of the California Education Code, the District will provide an annual written notice of District unlawful discrimination and sexual harassment policies to all current faculty, classified and administrative staff at the beginning of each college year. In addition, copies of these policies shall also be posted in areas of access to all employees; e.g., employee bulletin boards and break rooms. Posted notices shall include the name, telephone number and office location of the District EEO Officer, identified as the Officer responsible for accepting employee complaints of unlawful discrimination and sexual harassment.

New employees shall receive a copy of the District unlawful discrimination and sexual harassment policies and complaint procedures within their first 30 days of initial District employment. All new employees will be required to confirm receipt of this information, in writing, as part of their permanent personnel file in the Office of Human Resources.

Written copies of the unlawful discrimination and sexual harassment policies shall be posted on bulletin boards and other areas of access to students, and shall be included in the annual student publications, specifically including the class schedules, catalog and student handbook. Such written and posted notices shall include the name, telephone number and office location of the Vice-President of Student Services as complaint officer.

TRAINING AND EDUCATION

All District employees and students will receive training on, and copies of, the District policies and complaint procedures related to unlawful discrimination and sexual harassment.

The responsibility for planning and implementing new employee orientation and training, mandatory management training, and training for all District employees, is assigned to the Employee Relations department, District Equal Employment Opportunity Officer.

Primary coordinative responsibility for planning and implementing the annual student training and for assuring posting and publicity of the unlawful discrimination and sexual harassment policies and complaint procedures is assigned to the Vice-Presidents of Student Services for their respective Colleges.

District Employees

Within their first year of employment, all new District employees shall receive mandatory training on District unlawful discrimination and sexual harassment policies and complaint procedures. At the conclusion of the mandatory training, all new employees will complete and submit for inclusion in their personnel file, written verification of their attendance and receipt of the revised policies and/or procedures.

Each District employee will be given a copy of the current policy and complaint procedures related to unlawful discrimination and sexual harassment, and will be given replacement copies whenever these policies and/or procedures are revised.

A copy of the District's written policy on unlawful discrimination and sexual harassment will be

displayed in prominent locations in the administration building and other College and District Office locations where other institutional notices regarding rules, regulations, procedures and standards of conduct are posted.

In addition, copies of the District policies and procedures regarding unlawful discrimination and sexual harassment will be:

- accessible on the District/College websites
- printed in other District publications that set forth the comprehensive rules, regulations, procedures, and standards of employee conduct for the District.

Mandatory Training for All District Managers

Because of their special responsibilities under the law, District supervisors and administrators will participate in a two-hour mandatory annual training program on District sexual harassment policies and complaint procedures, every two years. Additional mandatory, two-hour training will be provided by the District when the policy and/or procedures are revised.

New District managers are required to receive sexual harassment policy and procedures training within six months of assuming a new management position.

Peralta Students

An informational workshop will be made available to all students at least once annually, and should include an explanation of the policy, and how to file a complaint with the Vice-President of Student Services. The informational workshop may be included as part of the Student Orientation Program at each College.

A copy of the District's written policy on unlawful discrimination and sexual harassment will be displayed in prominent locations in the administration building and other College and District Office locations where other institutional notices regarding rules, regulations, procedures and standards of conduct are posted.

In addition, copies of the District policies and procedures regarding unlawful discrimination and sexual harassment will be:

- accessible on the District/College websites,
- provided to students as part of any student orientation program conducted for new students at the beginning of the college year or semester, or summer session as applicable
- printed in student publications that set forth the comprehensive rules, regulations, procedures, and standards of student conduct for the District.

INFORMAL COMPLAINT PROCEDURES FOR EMPLOYEES AND STUDENTS

Purpose

The primary purpose of the Informal Complaint Procedures is to resolve the issue through a mediation process. The Informal process is typically initiated when there is a simple misunderstanding between the parties that can be discussed and resolved, or when the Claimant does not wish to file a Formal Complaint. The Responsible District Officer is accountable for advising the Claimant of his/her rights and responsibilities under both the Informal and Formal Procedures.

The Informal Complaint Procedures will not be used as a predicate to the process and investigation of a Formal Complaint. If a Formal Complaint is filed, the Responsible District Officer must complete an investigation within the required timelines unless it is voluntarily rescinded by a Complainant as a result of successful informal resolution.

Coordination of the Informal Complaint process is assigned to the respective Responsible District Officer. Resolution of Informal Complaints may only require such options as the following:

- an apology from the Respondent, with assurance that the offending behavior will cease
- a structured meeting between the parties that is facilitated by the Responsible District Officer (or designee)
- mediation(s) coordinated by the Responsible District Officer (or designee)

Following procedural discussion with the Responsible District Officer, the Complainant may elect Informal Complaint resolution by completing and submitting the Informal Complaint Procedures Request Form (see Attachment A of this document). The completed, signed and dated form is submitted to the Responsible District Officer for the confidential record as documentation of the Informal Complaint Procedures being the elected option.

As part of the District obligation to maintain a work and learning environment that is free from unlawful discrimination and sexual harassment, the Responsible District Officer is accountable for assessing the nature of all Informal complaints to determine whether or not the allegations should be formally investigated, even when the Complainant considers the matter resolved.

Any person who alleges that he or she has personally suffered unlawful discrimination, or a person who has learned of such unlawful discrimination, including a faculty member administrator, student, family member or third party, shall hereinafter be referred to as the “Complainant.”

The person who is accused of the violation is hereinafter referred to as the “Respondent.”

Commitment to Timely Resolution:

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

Step 1

A Peralta Community College District employee, student or third party who believes that either unlawful discrimination or sexual harassment has occurred is to immediately notify the appropriate Responsible District Officer.¹

Other College and/or District Office managers who receive such complaints will do the following:

1. Report the complaint(s) immediately to the appropriate Responsible District Officer; and
2. Advise the Complainant to meet with the Responsible District Officer immediately

Step 2

The Responsible District Officer will meet with the Complainant to do the following:

- d. hear the full complaint, with all allegations, including locations, dates and times of offending incident(s); and names/contact information of all witnesses. The Complainant's report may be tape-recorded at the discretion of the Responsible District Officer, following notification to the Complainant
- e. advise the Complainant about the Informal and Formal Procedures and his/her rights and responsibilities under both options, including required timelines
- f. give the Complainant a copy of this document that includes the Informal and Formal Procedures and suggested forms
- g. inform the Complainant that he/she will not be required to confront or work out problems with the person who is accused
- h. advise the Complainant about confidentiality and no retaliation
- i. advise the Complainant of his/her right to representation throughout the process, as required by law or by collective bargaining agreement. The Responsible District Officer may allow for representation for the Respondent and for the Complainant in other circumstances on a case-by-case basis.
- j. if the Informal Complaint process is selected, provide the Complainant with the Informal Complaint Procedures Request Form for completion and signature.
- k. advise the Complainant about the option to file a complaint with the appropriate outside agencies:

Employment-related Claims:

United States Equal Employment Opportunity Commission (EEOC) and/or with the California Department of Fair Employment and Housing (DFEH), subject to that agency's jurisdiction. When a complaint is filed with either of these outside agencies, the Responsible District Officer has the option of discontinuing the investigation unless otherwise advised by the California Community Colleges State Chancellor's Office.

¹ Employees and third parties are required to notify the EEO Officer, located in the District Administration Building (Employee Relations), 333 East 8th Street, Oakland CA 94606. Students are required to notify the Vice-President of Student Services at their respective College.

Non-Employment related Claims:

Office for Civil Rights of the United States Department of Education (OCR) where such a complaint is within that agency's jurisdiction.

1. inform the Complainant that the timeline for rendering the administrative determination for Informal and for Formal Complaints is 90 days.

Step 3

The Responsible District Officer meets with the Respondent to do the following:

- a. advise the Respondent that a complaint has been made and that Informal Complaint Procedures have been requested by the Complainant
- b. provide the Respondent with a copy of this document that includes the Informal and Formal Procedures and required forms.
- c. advise the Respondent about confidentiality and no retaliation
- d. advise the Respondent of his/her right to representation throughout the process, as required by law or by collective bargaining agreement (the Responsible District Officer may allow for representation for the Respondent and for the Complainant in other circumstances on a case-by-case basis).
- e. review a complete summary of the allegations, and document the complete response(s). The responses may be tape-recorded at the discretion of the Responsible District Officer, following notification to the Respondent.
- f. review the Informal resolution process with the Respondent, including Respondent rights and responsibilities, and possible steps to informal resolution (mediation, apology, other options)

Step 4

If the Respondent agrees to participate in informal resolution, the Responsible District Officer coordinates the appropriate meeting, mediation session, and/or direct apology, in order to resolve the complaint.

Following completion of the Informal Complaint process, the Responsible District Officer will provide the Complainant and Respondent with written confirmation that the process has been concluded, along with the standards of conduct/behavior that were agreed upon as part of the resolution, if applicable.

All documentation related to the Informal Complaint process and resolution will be maintained as part of the confidential record by the Responsible District Officer for a period of two years, or until all appeals and proceedings have been terminated, whichever occurs later.

Step 5

If the Respondent does not agree to participate in Informal resolution, the Responsible District Officer shall:

- so notify the Complainant
- direct the Complainant to complete and submit the Formal Complaint Procedures form to begin the formal process
- notify the Respondent that the Formal Complaint Procedures have been initiated

- remind Respondent and Complainant about confidentiality and no retaliation
- remind Respondent and Complainant about rights to representation

INFORMAL COMPLAINT PROCEDURES REQUEST FORM

(To be completed by the employee or student Complainant and submitted to: District EEO Officer, for employee complaints; Vice-President for Student Services, for student complaints)

Print Complainant Name: _____ Date Filed with EEO Ofcr: _____

I am currently:
 a Peralta employee: Job title: _____ Ofc. Ext.: _____

Division/Department Name: _____ College/District Office: _____

 a Peralta student at: (College) _____

Home Address: _____

City, State, Zip: _____

Home Tel.: () _____ Cell Ph.: () _____ E-mail: _____

I have been advised of the District policies and procedures for both Informal and Formal complaints of unlawful discrimination and sexual harassment.

I hereby request an Informal resolution of my complaint against: _____

Clearly describe your complaint, including applicable dates, times and locations (attach additional sheets as needed):

What would you like the District to do as the result of your complaint (what remedy are you seeking)?

I certify that the information included on this form is true and accurate to the best of my knowledge. I hereby agree to participate in the District's Informal Complaint Procedures process.

Complainant Signature: _____ Date: _____

Responsible District Officer Signature: _____ Date: _____

FORMAL COMPLAINT PROCEDURES **FOR EMPLOYEES AND STUDENTS:** **UNLAWFUL DISCRIMINATION AND SEXUAL HARASSMENT**

Purpose:

The Formal Complaint Procedures provide employees, students, and third parties with a process to use in bringing allegations of unlawful discrimination (including sexual harassment) forward to the appropriate District contact person for investigation and resolution.

Reporting a Complaint:

All employee complaints are directed to the District Equal Employment Opportunity Officer (who serves as the Responsible District Officer for employee complaints only), located in the central District Office of Human Resources.

All student complaints are directed to the Vice-President of Student Services, located at each College (who serve as Responsible District Officers for such complaints).

Commitment to Timely Resolution:

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

Step 1

A Peralta Community College District employee, student or third party who believes that either unlawful discrimination or sexual harassment has occurred is to immediately notify the appropriate Responsible District Officer.²

Other College and/or District Office managers who receive such complaints will do the following:

1. Report the complaint(s) immediately to the appropriate Responsible District Officer; and
2. Advise the Complainant to meet with the Responsible District Officer immediately

Step 2

The Responsible District Officer will meet with the Complainant to do the following:

- a. provide the Complainant with the required, written, Formal Complaint form to complete, sign and submit to the Officer no later than 180 days from the date of the alleged employment discrimination occurred, and within one year for non-employment related complaints. These filing periods will be extended, by the Officer, by no more than 90 days following the expiration of the time period, if the Complainant first obtained knowledge of the facts of the alleged violation after the expiration of the required filing period.
- b. review the submitted Complaint form to confirm that it is not defective. A Formal Complaint is defective if any of the following Complaint requirements have not been met:

² Employees and third parties are required to notify the EEO Officer, located in the District Administration Building (Employee Relations), 333 East 8th Street, Oakland CA 94606. Students are required to notify the Vice-President of Student Services at their respective College.

- the Complaint is filed by the individual who alleges that he/she has personally suffered unlawful discrimination (including sexual harassment); or the Complaint is filed by a faculty member, administrator, family member or third party who learned of such unlawful discrimination in his or her official capacity with the District;
- the Complaints must be filed on the required form, available in the office of the Responsible District Officer and on the District website;
- Complaints not involving employment issues must be filed within one year of the date of the alleged discrimination or within one year of the date on which the Complainant knew or should have known of the facts underlying the allegation of unlawful discrimination;
- Complaints that involve employment issues must be filed within 180 days of the date the alleged unlawful discrimination occurred, except that this filing period should be extended by no more than 90 days following the expiration of the 180 days if the Complainant first obtained knowledge of the facts of the alleged violation after the expiration of the 180 days.

The Responsible District Officer shall, in addition to accepting the Complaint of unlawful discrimination (sexual harassment) in employment, advise the Complainant that he or she may also file the Complaint with the U.S. Equal Employment Opportunity Commission (EEOC) and/or the Department of Fair Employment and Housing (DFEH) where the complaint is within the jurisdiction of those agencies, and

Forward a copy of the complaint by the Complainant with DFEH to the State Chancellor's Office for a determination of whether the issues presented require an independent investigation of the matter

if the Complaint is found to be defective, the Officer will return it immediately to the Complainant with a complete explanation of why an investigation will not be initiated under California Code of Regulations, Title 5, section 59300 et seq. The notice will inform the Complainant that the Complaint does not meet the requirements, and shall specify in what requirement the Complaint is defective. A copy of this notice to the Complainant will be retained in the confidential Officer file.

- c. if the Complaint is not defective, the Officer will schedule a meeting with the Complainant to hear the full Complaint, with all allegations, including locations, dates and times of offending incident(s); and names/contact information of all witnesses. The Complainant's report may be tape-recorded at the discretion of the Responsible District Officer, following notification to the Complainant
- d. advise the Complainant about the Formal Procedures and his/her rights and responsibilities
- e. give the Complainant a copy of this document that includes the Formal Procedures
- f. inform the Complainant that he/she will not be required to confront or work out problems with the accused
- g. advise the Complainant about confidentiality and no retaliation
- h. advise the Complainant of his/her right to representation throughout the process, as required by law or collective bargaining agreement. The Responsible District Officer may allow for representation for the Respondent and for the Complainant in other circumstances on a case-by-case basis.
- i. advise the Complainant about the option to file a complaint with the appropriate outside agencies:

Employment-related Claims:

United States Equal Employment Opportunity Commission (EEOC) and/or with the California Department of Fair Employment and Housing (DFEH), subject to that agency's jurisdiction. When a complaint is filed with either of these outside agencies, the Responsible District Officer has the option of discontinuing the investigation unless otherwise advised by the California Community Colleges State Chancellor's Office.

Non-Employment related Claims:

Office for Civil Rights of the United States Department of Education (OCR) where such a complaint is within that agency's jurisdiction.

- j. inform the Complainant that the timeline for rendering the administrative determination for Formal Complaints is 90 days, and that this timeline includes all Informal resolution efforts that may have been attempted prior to the Complainant filing the Formal Complaint.

Step 3

The Responsible District Officer meets with the Respondent to do the following:

- a. advise the Respondent that a Complaint of unlawful discrimination has been filed and its general nature. Such notification to the Respondent should occur as soon as possible following the filing of the Formal Complaint.
- b. advise the Respondent of his/her right to representation throughout the process, as required by law or by collective bargaining agreement (the Responsible District Officer may allow for representation for the Respondent and for the Complainant in other circumstances on a case-by-case basis), and schedule a meeting with the Respondent
- c. at or prior to the initial meeting, provide the Respondent with a copy of this document that includes the Formal Complaint Procedures
- d. advise the Respondent about confidentiality and no retaliation
- e. advise the Respondent that an assessment of the accuracy of the allegations has not yet been made, that the Complaint will be investigated, and that the Respondent will be provided an opportunity to present his/her side of the matter.
- f. advise the Respondent that any conduct that could be viewed as retaliatory against the Complainant or any witnesses must be avoided.
- g. inform the Respondent that the timeline for rendering the administrative determination for Formal Complaints is 90 days, and that this timeline includes all Informal resolution efforts that may have been attempted prior to the Complainant filing the Formal Complaint.

Step 4

The Responsible District Officer opens the full investigation of the Complaint allegations, including interviews with witnesses, review of applicable documents and such other activities as the Officer determines appropriate in fact-finding, and shall advise each witness and other participant about confidentiality and no retaliation.

- a. The full investigation may include additional interviews with the Complainant, as needed.
- b. All investigation materials, including notes and/or tape recordings of witness interviews, will be treated by the Responsible District Officer as confidential.

Step 5

Following compilation of all Complaint allegations and their specifics, the Responsible District Officer will contact the Respondent and schedule a meeting. At the Respondent's discretion, the meeting may include the selected Respondent representative. The Responsible District Officer may tape-record the meeting following notification to the Respondent, and shall do the following:

- a. remind the Respondent about confidentiality and no retaliation
- b. remind the Respondent that the purpose of the meeting is to provide an opportunity to present his/her side of the matter regarding each of the Complaint allegations
- c. review each of the allegations, in detail, with the Respondent
- d. document (or tape record, if previously notified) the complete responses made by the Respondent
- e. collect from the Respondent the names and contact information of all witnesses
- f. compile all written documents, provided to suggested by the Respondent

Step 6

The Responsible District Officer shall:

- a. conduct interviews with all witnesses provided by the Respondent.
- b. elect to tape-record these meetings, following notification to each witness.
- c. review all written documents suggested or provided by the Respondent in support of his/her responses

Step 7

On or before the end of the required deadline, the Responsible District Officer shall complete the investigation, review its findings, write a full investigation report, and review the investigation conclusions and recommendations with the chief executive officer. The chief executive officer will then make the final administrative determination.

COMPLAINANT NOTIFICATION

- a. for Complaints involving employment discrimination (pursuant to Sections 59300 et seq., of Title 5), the Responsible District Officer shall forward to the Complainant, within 90 days of receiving the Complaint;
 - a summary of the investigation findings that includes the determination of the chief executive officer as to whether there is probable cause to believe discrimination occurred with respect to each of the allegations made

- a descriptions of the actions taken, if any, to prevent similar problems from occurring in the future
 - the proposed resolution of the Complaint; and
 - the Complainant’s right to appeal to the District Board of Trustees and to the Department of Fair Employment and Housing
- b. For Complaints not involving employment discrimination, within 90 days of receiving an unlawful discrimination Complaint (pursuant to Title 5), the Responsible District Officer shall complete the investigation and
- forward a copy of the investigative report to the State Chancellor’s Office, Division of Legal Affairs
 - forward a summary of the report to the Complainant, with written notice that includes the following information
 - 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
 - a description of the actions taken, if any, to prevent similar problems from occurring in the future
 - the proposed resolution of the Complaint; and
 - the Complainant’s right to appeal to the District Board of Trustees and to the State Chancellor
 - a reminder about confidentiality and no retaliation

RESPONDENT NOTIFICATION

At the conclusion of all employment and non-employment investigations, the Responsible District Officer shall forward written notification to the Respondent that includes the following information:

- a summary of the investigation and findings as to each of the allegations made in the Complaint that related to the Respondent
- the administrative determination of the chief executive officer (or designee)
- (if the Respondent was found to have violated unlawful discrimination and/or sexual harassment policies) actions that will be taken by the District, including proposed disciplinary action and notice of Respondent rights
- advice about confidentiality and no retaliation
- advice about rights to representation throughout any subsequent processes

RETENTION OF COMPLAINT AND INVESTIGATION MATERIALS

The Responsible District Officer shall keep all Complaint and investigation documents in a confidential file for a period of at least three years after closing the case, and shall make them available to the State Chancellor upon request

COMPLAINANT APPEAL RIGHTS

If not satisfied with the administrative determination, the Complainant has appeal rights as follows:

First Level of Appeal

The Complainant has the right to file a written appeal to the District Board of Trustees within 15 days from the date of the administrative determination.

The Board of Trustees will review the original Complaint, the investigation report, the administrative determination and the written appeal.

Following its review, the Board will issue a final District decision in the matter within 45 days after receiving the appeal.

Alternatively, the District 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 Board of Trustees will be forwarded to the Complainant and to the State Chancellor's Office.

Second Level of Appeal

The Complainant has the right to file a written 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 Board issued the final District decision or permitted the administrative determination to become final by taking no action within 45 days.

The written appeal must be accompanied by a copy of the decision of the Board or evidence showing the date on which the Complainant filed an appeal with the Board, and a statement under penalty of perjury that no response was received from the Board within 45 days from that date.

The Department of Fair Employment and Housing (DFEH) has final jurisdiction over employment cases, and the State Chancellor's Office has agreed to accept DFEH decisions and does not accept appeals in employment discrimination cases.

RESPONDENT APPEAL RIGHTS

If the investigation finds evidence that the Respondent unlawfully discriminated (including sexual harassment), the Respondent has the right to representation, and to respond to, and/or appeal the administrative determination and all resulting disciplinary actions proposed by the District.

Employee and student Respondent rights are provided, pursuant to procedures and timelines given him/her as described in collective bargaining agreements, student regulations, District policy, and other applicable statutes.



PERALTA COMMUNITY COLLEGE DISTRICT UNLAWFUL DISCRIMINATION COMPLAINT FORM

Name: _____
Last First

Address: _____
Street or P.O. Box City, State Zip:

Phone: _____
Home/Cell Email

I am a: Student Employee Other: _____

I wish to complain against the following individual(s):

Name(s): _____

District: _____ **College:** _____

Date of most recent incident of alleged discrimination: _____
*(Non-employment complaints must be filed within one year of the date of the alleged unlawful discrimination.
Employment complaints must be filed within 180 days of the date of the alleged unlawful discrimination.)*

I allege discrimination based on the following protected categories:

- Age Gender Expression Marital Status Military/Veteran Status
- Ancestry Gender Identification Medical Condition Physical/Mental Disability
- Color Immigration Status National Origin Race
- Religion Retaliation Sex/Gender Sexual Orientation
- Ethnic Group
- Other Protected Class (Explain): _____

What would you like the District to do in response to your complaint?

Clearly state your complaint. Describe each incident of alleged discrimination separately. For each incident, provide the following information:

- 1) date(s) the discrimination action occurred;
- 2) names(s) of individual(s) who participated in discriminatory conduct;
- 3) location of incident;
- 4) what happened;
- 5) witnesses (if any);
- 6) why you believe the conduct was motivated by your protected classification;
- 7) if applicable, explain why you believe you were retaliated against for filing a complaint or asserting your right to be free from discrimination on any of the above grounds.

(Attach additional pages as necessary.)

I certify that this information is correct to the best of my knowledge.

Signature of Complainant _____ *Date*

Name of individual documenting verbal complaint: _____

Title *Phone* *Email*

=====

OFFICE USE ONLY

Date complaint received: _____

Received by _____ *Title*