

# NONDISCRIMINATION POLICY AND COMPLAINT PROCEDURES UNDER SECTIONS 59300 ET SEQ.

## Introduction and Scope

This is intended as notice and clarification of the grievance procedures that apply to different forms of unlawful discrimination, including disability harassment concerning the implementation of the District's nondiscrimination policy and complaint procedures pursuant to California Code of Regulations, Title 5, sections 59300 et seq.

## Unlawful Discrimination Policy

The policy of the Mt. San Jacinto Community College District is to provide an educational and employment environment including but not limited to access to its services, classes and programs in which no person shall be unlawfully denied full and equal access to, the benefits of, or be unlawfully subjected to discrimination on the basis of ethnic group identification, national origin, religion, age, sex, gender, gender identification, gender expression, race, color, medical condition, genetic information, ancestry, sexual orientation, marital status, physical or mental disability, or because they are 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 in any program or activity that is administered by, funded directly by, or that receives any financial assistance from the State Chancellor or Board of Governors of the California Community Colleges. Discrimination on the basis of sex or gender also includes sexual harassment.

The District is committed to equal opportunity in educational programs, employment, and all access to institutional programs and activities.

Employees, students, or other persons acting on behalf of the District who engage in unlawful discrimination as defined in Administrative Procedure 3410 (<https://go.boarddocs.com/ca/msjc/Board.nsf/goto/?open&id=CQJVLH814555>) or by state or federal law may be subject to discipline, up to and including discharge, expulsion, or termination of contract.

The Superintendent/President shall establish administrative procedures that ensure all members of the college community can present complaints regarding alleged violations of this policy and have their complaints heard in accordance with the title 5 regulations and those of other agencies that administer state and federal laws regarding nondiscrimination.

AP 3435 Discrimination and Harassment Complaints and Investigations (<https://go.boarddocs.com/ca/msjc/Board.nsf/goto/?open&id=D6CQRM6A9561>)

## Reports of Discrimination

The District requires that all reports of discrimination, including harassment on the basis of disability, be addressed by the District's complaint procedure pursuant to California Code of Regulations, title 5, sections 59300 et seq. The district's procedures for complaints of discrimination may be found on the district website under the student portal. The full discrimination policy and forms are located

at the following: Discrimination policy (<http://www.msjc.edu/discriminationpolicy/>).

## District's Response to Reports of Discrimination

The District is responsible and has an affirmative duty to respond to complaints of discrimination in a timely manner. The district has identified the Vice President of Human Resources as its Responsible District Officer. All complaints of discrimination pursuant to section 59300 et seq. will be processed by the Vice President of Human Resources. The address for the Vice President of Human Resources is as follows:

41888 Motor Car Parkway  
Temecula, CA 92591  
(951) 487-3158

## Statement Regarding Formal and Informal Complaint Procedures

The purpose of the informal resolution process is to allow an individual who believes they have been unlawfully discriminated against or sexually harassed to resolve the issue through a mediation process rather than the formal complaint process. Typically, the informal process will be invoked when there is a simple misunderstanding or the complainant does not wish to file a formal complaint. Resolution of an informal complaint may require nothing more than a clarification of the misunderstanding or an apology from the respondent and an assurance that the offending behavior will cease.

## Informal Complaint Procedures

If a person brings forward a complaint of unlawful discrimination either informally, or not using the prescribed form, the Vice President of Human Resources (or equivalent officer) is responsible for undertaking efforts to informally resolve the charges. The complainant must also be advised that participation in an informal resolution is not mandatory.

The Responsible District Officer (or equivalent) is required to inform the person making the complaint of their right to file a formal complaint. They must also explain the procedure for filing a formal complaint.

The Responsible District Officer must advise the complainant that if the complaint falls within the jurisdiction of the Office for Civil Rights of the U.S. Department of Education (OCR), they have the option to file a nonemployment-based complaint with that office. If the complaint is employment-related, the complainant should be advised that they may file a complaint with the U.S. Equal Employment Opportunity Commission (EEOC) and/or the California Department of Fair Employment and Housing (DFEH, if the complaint falls under the jurisdiction of those agencies.

Efforts at informal resolution need not include any investigation unless the district's responsible officer determines that an investigation is warranted by the seriousness of the charges. Accordingly, because the district is responsible for maintaining a safe and discrimination-free educational environment, serious allegations may need to be investigated even if the complaining party considers the matter resolved. Efforts at informal resolution may continue after the filing of a formal written complaint, but after a complaint is filed an investigation is required to be conducted pursuant to title 5, section 59334, and must be completed unless the matter is informally resolved and the complainant dismisses

the complaint or the complainant files with the DFEH and the Chancellor elects not to require further investigation pursuant to title 5, section 59328(f)(2). Any efforts at informal resolution after the filing of a written complaint will not exceed the 90-day period for rendering the administrative determination pursuant to title 5, section 59336.

<https://go.boarddocs.com/ca/msjc/Board.nsf/goto?open&id=CSYT2R7320B7> (<https://go.boarddocs.com/ca/msjc/Board.nsf/goto?open&id=CQJVLH814555>)

## Formal Complaint Procedures

If a complainant decides to file a formal written unlawful discrimination complaint against the district, they must file the complaint on a form prescribed by the State Chancellor. These approved forms are available from the district and also at the State Chancellor's website, as follows: Discrimination (<https://www.cccco.edu/About-Us/Chancellors-Office/Divisions-General-Counsel/Programs/College-District-Discrimination-Appeals/>).

The completed form must be filed with the district representative or mailed directly to the State Chancellor's Office of the California Community Colleges. Once a complaint is filed, the individual(s) accused of engaging in prohibited discriminatory conduct should be advised of that filing and the general nature of the complaint. This should occur as soon as possible and appropriate under the circumstances. The district will also advise the accused that an assessment of the accuracy of the allegations has not yet been made, that the complaint will be investigated, that the accused will be provided an opportunity to present their side of the matter, and that any conduct that could be viewed as retaliatory against the complainant or any witnesses must be avoided. A written response summarizing the district's investigatory actions and investigative findings will be provided to the complainant.

## Handling Discrimination Complaints

As stated above, in an informal process the district officer shall advise the complainant of their rights and responsibilities under both the formal and informal processes. If the complainant declares their preference for the informal process, the Vice President of Human Resources shall present the complainant with a document that describes the informal/formal process that contains the basics of complainant's allegations of unlawful discrimination. This document will clearly indicate that the complainant opted for the informal resolution process and should be signed and dated by the complainant. The informal resolution process will not be made a predicate to the process and investigation of a formal complaint. If a formal complaint is filed, an investigation must be completed within the time required unless it is voluntarily rescinded by a complainant as a result of a successful informal resolution.

Selecting an informal resolution does not extend the time limitations for filing a formal complaint. Efforts at informal resolution may continue after the filing of a formal written complaint, but after a formal complaint is filed an investigation is required to be conducted pursuant to title 5, section 59334, and must be completed unless the matter is informally resolved and the complainant dismisses the complaint or the complainant files with the DFEH and the Chancellor elects not to require further investigation pursuant to title 5, section 59328(f)(2). Any efforts at informal resolution after the filing of a written complaint will not exceed the 90-day period for rendering the administrative determination pursuant to title 5, section 59336.

If an informal complaint is filed and an understanding cannot be reached by the parties involved, the Vice President of Human Resources will

render a written decision to the complainant regarding the district's actions and findings within 90-days of receiving the informal complaint. If the parties are able to come to an understanding and no investigation is necessary, no written decision regarding the complaint will be rendered to the complainant. However, if the informal complaint requires an investigation, regardless of any understanding reached by the parties, the will provide a written decision summarizing the results of the investigation to the complainant regarding the district's actions and findings within 90-days of receiving the informal complaint. If a formal complaint is received by the Vice President of Human Resources, the district must investigate the complaint and a written decision summarizing the investigation results will be provided to the complainant within 90-days of receiving the informal complaint.