

LAKE TAHOE COMMUNITY COLLEGE DISTRICT



**UNLAWFUL DISCRIMINATION COMPLAINT RESOLUTION
PROCEDURES AND SEXUAL HARASSMENT POLICY**

2003 - 2004

**Adopted by the Board of Trustees
March 25, 2003**

Table of Contents

	<u>Page</u>
UNLAWFUL DISCRIMINATION AND COMPLAINT RESOLUTION PROCEDURES	
1. Introduction and Scope	1
2. Unlawful Discrimination Policy	1
3. Responsible District Officer	2
4. Students and Employees Notice, Training and Education	2
5. Retaliation	3
6. Confidentiality of the Process	3
7. Informal Complaint Procedure	4
8. Filing of a Formal Written Complaint	5
9. Threshold Requirements Prior to Investigation of a Formal Written Complaint ...	6
10. Notice to State Chancellor or District	7
11. Administrative Determination	7
12. Complainant's Appeal Rights	7
13. Forward to State Chancellor	8
14. Extensions	8
15. Relationship to Collective Bargaining Agreement	9
16. Relationship to other Enforcement Mechanisms	9
Sexual Harassment Policy	
1. Purpose	10
2. Responsible District Officer	10
3. Definition	10
4. Examples of Sexual Harassment	11
5. Dissemination of Policy	12
6. What to Do If You Believe You Have Been Subjected to Sexual Harassment	13
7. Obligation of All Employees	13
<u>Appendix</u>	
Glossary of Terms	14
Affirmative Action Forms	
▪ Confidentiality Acknowledgement Statement	17
▪ Unlawful Discrimination Complaint Form	18

UNLAWFUL DISCRIMINATION COMPLAINT RESOLUTION PROCEDURES

1. Introduction and Scope

These are the written policies and procedures for filing and processing complaints of unlawful discrimination and sexual harassment at the Lake Tahoe Community College District. These policies and procedures incorporate the legal principles contained in unlawful discrimination provisions of the California Code of Regulations, Title 5, sections 59300 et seq. as well as other state and federal substantive and procedural requirements.

These unlawful discrimination policies and procedures were adopted by the Lake Tahoe Community College District Governing Board on March 25, 2003, in accordance with the procedures of the Board.

Authority: Cal. Code Regs., T5, § 59326; Ed. Code, § 66281.5; 20 U.S.C. § 1681 et seq. Reference: Cal. Code Regs., T5, § 59300 et seq.; 34 C.F.R. § 106.8(b).

2. Unlawful Discrimination Policy

The policy of the Lake Tahoe Community College District is to provide an educational and employment environment in which no person shall be unlawfully denied full and equal access to, the benefits of, or be unlawfully subjected to discrimination on the basis of ethnic group identification, national origin, religion, age, sex, race, color, ancestry, sexual orientation, or physical or mental disability.

Lake Tahoe Community College District provides an educational and employment environment free from unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct or communications constituting sexual harassment.

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

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

Authority: Cal. Code Regs., T5, § 59300; Gov. Code, §§ 11135-11139.5; Ed. Code, § 66250 et seq.; 42 U.S.C. § 2000d; 20 U.S.C. § 1681; 29 U.S.C. § 794; 42 U.S.C. § 12100 et seq.; 42 U.S.C. § 6101.

3. Responsible District Officer

The Lake Tahoe Community College District has identified the Director of Human Resources to the State Chancellor's Office and to the public as the single Responsible District Officer for receiving unlawful discrimination complaints filed pursuant to section 59328 and coordinating their investigation. 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 business needs dictate, and always when the officer designated to receive complaints is named in the complaint or is implicated by the allegations in the complaint.

Any persons who believes he or she has been subjected to unlawful discrimination should contact the Director of Human Resources at Room A108, One College Drive South Lake Tahoe, CA 96150 530-541-4660 x 269. If the complaint is against the Director of Human Resources, the Superintendent/President should be notified.

Authority: Cal. Code Regs., T5, § 59324; 34 C.F.R. § 106.8.

4. Students and Employees Notice, Training and Education

A copy of these written policies on unlawful discrimination and sexual harassment will be displayed on our website and on file in the College library. Posters that contain the basic legal requirements will be posted in places readily accessible to students, job applicants, and employees.

The Lake Tahoe Community College District's responsible officer shall make arrangements for or provide training to employees and the Associated Student Council on the District's unlawful discrimination policy and procedures. Faculty members, members of the administrative staff, and members of the support staff will be provided with a copy of the District's written policy on unlawful discrimination at the beginning of the first quarter or semester of the college year after the policy is adopted. In addition, all new hires will be provided with a copy of this policy upon hire.

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. A summary of this policy, with reference to the full text available on our website, will be included in our annual catalog of course offerings, available to all students.

Authority: Ed. Code, § 66281.5; Cal. Code Regs., T5, §§ 59324 and 59326. Reference: Cal. Code Regs., T5, § 59300 et seq.; 34 C.F.R. § 106.8(b).

5. 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, or who represents or serves as an advocate for an alleged victim or alleged offender.

Authority: 20 U.S.C. § 1681 et seq.; 34 C.F.R. § 106; Cal. Code Regs., T5, § 59300 et seq.; Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, Title IX, Office for Civil Rights, January 19, 2001.

6. Confidentiality of the Process

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 or her name not be revealed, the responsible 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.

It is also important that complainants and witnesses understand the possibility that they may be charged with allegations of defamation if they circulate the charges outside of the District's process. In general, persons who are participating in a District investigative or disciplinary process that is related to a charge of discrimination are protected from tort claims such as defamation. However, persons who make allegations outside of these processes or who discuss their claims with persons outside of the process may expose themselves to tort charges. Complainants, witnesses, and those accused of discrimination will all be asked to sign a confidentiality acknowledgement statement.

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, § 1; Civil Code § 47; Ed. Code, §§ 76234 and 87740; Silberg v. Anderson (1990) 50 Cal.3d. 205; Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, Title IX, Office for Civil Rights, January 19, 2001.

7. Informal Complaint Procedure

The purpose of this procedure is to attempt to resolve complaints of discrimination through informal discussion. A person who feels aggrieved because of conduct that may constitute unlawful discrimination (complainant) 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 complaint, the complainant should contact the Responsible District Officer to attempt an informal resolution.

To accommodate the unique nature of harassment complaints, an informal process is provided for the primary resolution of a complaint at the earliest possible date.

Student Complaints

The Deans will be available to receive harassment complaints from students. The Dean of Student Services can be located in Room A100 at x 231. The Deans of Instruction can be located in Room A104 at x 225 and x 230. If the complaint cannot be readily resolved with the Dean, the Dean or student should contact the Responsible District Officer.

Employee Complaints

Employees shall first present their complaint to the Responsible District Officer or an administrator.

Upon receiving a harassment complaint, the Responsible District Officer will:

1. Undertake efforts to informally resolve the charges;
2. Advise the complainant that he or she need not participate in informal resolution;
3. Obtain a factual written statement of the complaint;
4. Notify the person bringing the charges of his or her right to file a formal complaint and explain the procedure for doing so;

5. Assure the complainant that he or she will not be required to confront or work out problems with the person accused of unlawful discrimination;
6. Advise the complainant that he or she may file a nonemployment-based complaint with the Office for Civil Rights (OCR) of the U.S. Department of Education where such a complaint is within that agency's jurisdiction.
7. If the complaint is employment-related, the complainant should be advised that he or she may file a complaint with the U.S. Equal Employment Opportunity Commission (EEOC) and/or the California Department of Fair Employment and Housing (DFEH) where such a complaint is within that agency's jurisdiction.

The Responsible District Officer will, when appropriate, conduct a follow-up investigation, interviewing the accused, witnesses, and the supervisor, and recommending the disposition of the complaint. The Responsible District Officer will review the factual information collected to determine whether the alleged conduct constitutes harassment, giving consideration to the record as a whole and the totality of the circumstances, including the nature of the offenses and the context in which the alleged incidents occurred, and will take and/or recommend appropriate action.

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. Selecting an informal resolution does not extend the time limitations for filing a formal complaint. Efforts at informal resolution may continue after the filing of a formal written complaint, but after a complaint is filed an investigation is required to be conducted pursuant to Title 5, section 59334, and will be completed unless the matter is informally resolved and the complainant dismisses the complaint. Any efforts at informal resolution after the filing of a written complaint will not exceed the 90-day period for rendering the administrative determination pursuant to Title 5, section 59336.

In employment-related cases, if the complainant files with the Department of Fair Employment and Housing, a copy of that filing will be sent to the State Chancellor's Office requesting a determination of whether a further investigation under Title 5 is required. Unless the State Chancellor's Office determines that a separate investigation is required, the District will discontinue its investigation under Title 5 and the matter will be resolved through the Department of Fair Employment and Housing.

Authority: Cal. Code Regs., T5, §§ 59327, 59328, 59334, 59336, and 59339; NLRB v. Weingarten, Inc. (1975) 420 U.S. 251.

8. Filing of Formal Written Complaint

If a complainant decides to file a formal written unlawful discrimination complaint against the District, he or she must file the complaint on 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:

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

The completed form must be filed with the District representative or mailed directly to the State Chancellor's Office of the California Community Colleges.

Once a complaint is filed, the individual(s) accused of engaging in prohibited discriminatory conduct should be advised of that filing and the general nature of the complaint. This should occur as soon as possible and appropriate under the circumstances. The District will also advise the accused that an assessment of the accuracy of the allegations has not yet been made, that the complaint will be investigated, that the accused will be provided an opportunity to present his/her side of the matter, and that any conduct that could be viewed as retaliatory against the complainant or any witnesses must be avoided.

Authority: Cal. Code Regs., T5, §§ 59311 and 59328.

9. Threshold Requirements Prior to Investigation of a Formal Written Complaint

When a formal written complaint is filed it will be reviewed to determine if the complaint meets the following requirements:

- The complaint must be filed on a form prescribed by the State Chancellor's Office.
- The complaint must allege unlawful discrimination prohibited under Title 5, section 59300.
- The complaint must be filed by one who alleges that he or she has personally suffered unlawful discrimination or by one who has learned of such unlawful discrimination in his or her official capacity as a faculty member or administrator.
 - In any complaint not involving employment, the complaint must be filed within one year of the date of the alleged unlawful discrimination or within one year of the date on which the complainant knew or should have known of the facts underlying the specific incident or incidents of alleged unlawful discrimination.
 - In any complaint alleging discrimination in employment, the complaint shall be filed within 180 days of the date the alleged unlawful discrimination occurred, except that this period will be extended by no more than 90 days following the expiration of that 180 days if the complainant first obtained knowledge of the facts of the alleged violation after the expiration of 180 days.

If the complaint is defective it will be immediately returned to the complainant with a complete explanation of why an investigation could not be initiated under Title 5, California Code of Regulations, section 59300 et seq. Additional information about this initial review of complaints can be found in the Guidelines for Processing Formal Title 5 Unlawful Discrimination Complaints prepared by the State Chancellor's Office.

Authority: Cal. Code Regs., T5, § 59328.

10. Notice to State Chancellor or District

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

Authority: Cal. Code Regs., T5, § 59330.

11. Administrative Determination

Within 90 days of receiving an unlawful discrimination complaint filed under Title 5, sections 59300 et seq., the Responsible District Officer will complete the investigation and forward a copy of the investigative report to the State Chancellor, a copy or summary of the report to the complainant, and written notice setting forth all the following to both the complainant and the State Chancellor:

- (a) the determination of the chief executive officer or his/her designee as to whether there is probable cause to believe discrimination occurred with respect to each allegation in the complaint;
- (b) a description of actions 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 governing board and the State Chancellor.

Authority: Cal. Code Regs., T5, § 59336.

12. Complainant's Appeal Rights

Complainants have appeal rights that they may exercise if they are not satisfied with the results of the District's administrative determination. At the time the administrative determination and summary is mailed to the complainant, the Responsible District Officer or his/her designee shall notify the complainant of his or her appeal rights as follows:

- First level of appeal: The complainant has the right to file an appeal to the District's governing board within 15 days from the date of the administrative determination. The District's governing board will review the original complaint, the investigative report, the administrative determination, and the appeal.
- 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.
- 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. The appeal must be accompanied by a copy of the decision of the governing board or evidence showing the date on which the complainant filed an appeal with the governing board, and a statement under penalty of perjury that no response was received from the governing board within 45 days from that date.

Complainants must submit all appeals in writing.

Authority: Cal. Code Regs., T5, §§ 59338 and 59339.

13. Forward to State Chancellor

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

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

Authority: Cal. Code Regs., T5, §§ 59338 and 59340.

14. Extensions

If for reasons beyond its control, the District is unable to comply with the 90-day or 150-day deadlines specified above for submission of materials to the complainant and the State Chancellor's Office, the responsible District officer will file a written request that the State Chancellor grant an extension of the deadline. The request will

be submitted no later than 10 days prior to the expiration of the deadlines established by Title 5 in sections 59336 and/or 59340 and will set forth the reasons for the request and the date by which the District expects to be able to submit the required materials.

A copy of the request for an extension will be sent to the complainant, who may file written objections with the State Chancellor within 5 days of receipt.

The State Chancellor may grant the request unless delay would be prejudicial to the 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.

Authority: Cal. Code Regs., T5, § 59342.

15. Relationship to Collective Bargaining Agreement

Nothing in the District's policy or personnel procedures shall be deemed to override any expressly applicable provision of any collective bargaining agreement between the District and an employee of that bargaining unit.

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. Employees may also request that other state and federal governmental agencies investigate complaints of unlawful discrimination. For example, any employee who thinks he/she has been harassed or retaliated against for resisting or complaining about unlawful discrimination may file a complaint with any of the following agencies:

California Department of Fair Employment and Housing
1330 Broadway #1326
Oakland, CA 94612
800-884-1684

Equal Employment Opportunity Commission
901 Market Street, Suite 500
San Francisco, CA 94103
415-356-5100

U.S. Department of Education, Office of Civil Rights
Old Federal Bldg., 09-8010
50 United Nations Plaza, Rm. 205
San Francisco, CA 94102; 415-556-4275

SEXUAL HARASSMENT POLICY

1. Purpose

The Lake Tahoe Community College District is committed to an environment in which all employees and students are treated with respect and dignity. Each employee has the right to work in a professional atmosphere that promotes equal employment opportunity, and is free from discriminatory practices. Each student has the right to learn in an environment that promotes equal educational opportunity, and is free from discriminatory practices.

Sexual harassment is a violation of Title VII of the Civil Rights Act of 1964, California Education Code Sections 210 through 214, inclusive, and Government Code Sections 12900-1296 (Fair Employment and Housing Act) and Title IX of the Education Amendments of 1972.

Therefore, the District strongly condemns, opposes, and prohibits sexual harassment of employees, applicants, or students whether verbal, physical, or environmental, by anyone in or from the District.

Any employee who violates this policy may be subject to discipline, up to and including termination. Any student who engages in sexual harassment of anyone in or from the District may be subject to discipline, up to and including expulsion.

2. Responsible District Officers

The Director of Human Resources shall be responsible for:

- a. implementation of this policy and its accompanying personnel procedures,
- b. appropriate distribution of policy to administrative staff, employees, and students,
- c. receipt of all complaints filed pursuant to this policy,
- d. coordination of investigation of complaints. The Director of Human Resources may be contacted at Room A108, One College Drive South Lake Tahoe, CA 96150, (530) 541-4660 x 269.

3. Definition

As used in this policy and regulation, "sexual harassment" includes, but is not limited to, unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone from or in the work or educational setting, under any of the following conditions:

- (a) Submission to the conduct is explicitly or implicitly made a term of a condition of an individual's employment, academic status, or progress.
- (b) Submission to, or rejection of, the conduct by the individual is used as the basis of employment or academic decisions affecting the individual.
- (c) 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.
- (d) 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, honor, programs, or activities available at or through the educational institution.

4. Examples of Sexual Harassment

- a. Making unsolicited verbal, physical, written, and/or visual contact of a sexual nature.
 - (1) **Verbal:** offensive and/or inappropriate comments, epithets, whistling, jokes and innuendoes of a sexual nature, including but not limited to, comments of a sexual nature about another person's or one's own physical appearance, attire, sexual thoughts, sexual behavior, marital status or sexual orientation.
 - (2) **Physical:** offensive and/or inappropriate touching, interference with movement, or sexual assault, including but not limited to, kissing, touching intimate places, unnecessary and unwelcome touching of nonintimate places, or blocking of free bodily movement.
 - (3) **Written:** sending or delivering sexually suggestive letters, notes, invitations, electronic media transmissions, or other reading materials.
 - (4) **Visual:** displaying sexually suggestive posters, pictures, drawings, cartoons, computer graphics or objects; making sexually suggestive or obscene gestures; leering or staring at another person with sexual intent.

The above types of conduct of a sexual nature may be considered sexual harassment whether or not they are directed at a specific person. A work or educational setting which is permeated with sexual communications or behaviors may create a hostile environment to all persons within that setting. Whether an environment is hostile depends on the totality of the circumstances, including such factors as the frequency and severity of the conduct and whether the conduct has a negative impact on person's work or educational environment.

- b. Continuing to express sexual interest after having been informed that the interest is unwelcome.
- c. Coercive sexual behavior used to control, influence, or affect the career, salary, or work environment of another person, including but not limited to promises or threats regarding appointments, promotions, transfers, changes of assignment, or performance evaluations which are explicitly or implicitly made contingent on the person tolerating or submitting to the sexual behavior.
- d. Coercive sexual behavior used to control, influence, or affect the educational opportunities, grades, or learning environment of a student, including but not limited to promises or threats regarding grades, course admission, performance evaluations, letters of recommendation, benefits or services such as scholarships, financial aid, or work study jobs which are explicitly or implicitly made contingent on the student tolerating or submitting to the sexual behavior.

5. Dissemination of Policy

This policy and related regulations shall be disseminated as follows:

- a. This policy and related regulations will be disseminated to all employees at the beginning of the first quarter of the school year and shall be provided to each new employee.
- b. Additionally, posters that contain the basic legal requirements will be posted in a prominent place readily accessible to students, job applicants and employees. A copy will also be displayed on our website and on file in the College library and the Human Resources Department.
- c. This policy and related regulations shall be provided to students as part of any orientation program for new students.
- d. This policy and related regulations shall appear in any District publication that sets forth the school's or district's comprehensive rules, regulations, procedures and standards of conduct.

All administrators and supervisors shall be knowledgeable of the District's policy and their responsibilities for its implementation.

6. What to do if You Believe You Have Been Subjected to Sexual Harassment

A person who believes that he/she has been subjected to sexual harassment at the Lake Tahoe Community College District may obtain a copy of the District's Unlawful Discrimination Complaint Resolution Procedures at the Human Resources office, Room A108, One College Drive, South Lake Tahoe, CA 96150, (530) 541-4660 x269. Students may also obtain a copy of the procedures at the Dean of Student Services office, Room A100. The district provides both informal and formal complaint resolution procedures. The district is committed to ensuring that persons complaining of sexual harassment will not be subject to retaliation of any kind.

7. Obligations of All Employees

- a. All employees shall report to the Responsible District Officer or an administrator any conduct on the part of employees; non-employees, such as sales representatives or service vendors; or students who sexually harass any employee or student of the district. Immediately following notification, the employee shall submit, in writing, a detailed and specific account of the incident, which will be used in investigating the allegation.
- b. All employees shall cooperate with any investigation of an alleged act of sexual discrimination/harassment conducted by the District or by an appropriate State or Federal Agency.
- c. No employee of the District shall take any action to discourage a victim of harassment from reporting such an instance.
- d. 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 Superintendent/President or Responsible District Officer immediately.

B. Glossary of Terms

Definitions applicable to nondiscrimination policies are as follows:

Appeal

A request by a complainant made in writing to the Lake Tahoe Community College District governing board pursuant to Title 5, section 59338, and/or to the State Chancellor's Office pursuant to Title 5, section 59339, to review the administrative determination of the District regarding a complaint of discrimination.

Complaint

A written and signed statement meeting the requirements of Title 5, section 59328 that alleges unlawful discrimination in violation of the nondiscrimination regulations adopted by the Board of Governors of the California Community Colleges, as set forth at Title 5, section 59300 et seq.

Days

Calendar days

Mental disability

Includes, but is not limited to, all of the following:

- (1) Having any mental or psychological disorder or condition, such as mental retardation, organic brain syndrome, emotional or mental illness, or specific learning disabilities, that limits a major life activity. For purposes of this section:
 - (A) "Limits" shall be determined without regard to mitigating measures, such as medications, assistive devices, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.
 - (B) A mental or psychological disorder or condition limits a major life activity if it makes the achievement of the major life activity difficult.
 - (C) "Major life activities" shall be broadly construed and shall include physical, mental, and social activities and working.
- (2) Any other mental or psychological disorder or condition not described in paragraph (1) that requires specialized supportive services.
- (3) Having a record or history of a mental or psychological disorder or condition described in paragraph (1) or (2), which is known to the District.
- (4) Being regarded or treated by the District as having, or having had, any mental condition that makes achievement of a major life activity difficult.
- (5) Being regarded or treated by the District as having, or having had, a mental or psychological disorder or condition that has no present disabling effect, but that may become a mental disability as described in paragraph (1) or (2).

"Mental disability" does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.

Physical disability

Includes, but is not limited to, all of the following:

- (1) Having any physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss that does both of the following:
 - (A) Affects one or more of the following body systems: neurological, immunological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine.
 - (B) Limits a major life activity. For purposes of this section:
 - (i) "Limits" shall be determined without regard to mitigating measures such as medications, assistive devices, prosthetics, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.
 - (ii) A physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss limits a major life activity if it makes the achievement of the major life activity difficult.
 - (iii) "Major life activities" shall be broadly construed and includes physical, mental, and social activities and working.
- (2) Any other health impairment not described in paragraph (1) that requires specialized supportive services.
- (3) Having a record or history of a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment described in paragraph (1) or (2), which is known to the District.
- (4) Being regarded or treated by the District as having, or having had, any physical condition that makes achievement of a major life activity difficult.
- (5) Being regarded or treated by the District as having, or having had, a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment that has no present disabling effect but may become a physical disability as described in paragraph (1) or (2).
- (6) "Physical disability" does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.

Discrimination

An act having adverse effects on the employment opportunities of one or more individuals because of their race, color, religious creed, national origin, ancestry, age (over 40), marital status, medical condition, physical handicap, sexual orientation or sex.

District

The Lake Tahoe Community College District or any District program or activity that is funded directly by the state or receives financial assistance from the state.

Harassment

Any statement, remark, or action based on protected group status which interferes with job performance or creates an intimidating, hostile, or offensive work environment. Unlawful harassment may be physical, verbal or visual in nature.

Person with a Disability

Any person who (1) has a physical or mental impairment which substantially limits one or more of such person's major life activities, (2) has a record of such an impairment, or (3) is regarded as having such an impairment. A person with a disability is "substantially limited" if he or she is likely to experience difficulty in securing, retaining or advancing in employment because of such an impairment.

Responsible District Officer

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

Unlawful discrimination in the form of unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone from or in the workplace or in the educational setting, and includes but is not limited to:

- (1) Making unsolicited written, verbal, physical, and/or visual contacts with sexual overtones. (Examples of possible sexual harassment that appear in a written form include, but are not limited to: suggestive or obscene letters, notes, invitations. Examples of possible visual sexual harassment include, but are not limited to: leering, gestures, display of sexually aggressive objects or pictures, cartoons, or posters.)
- (2) Continuing to express sexual interest after being informed that the interest is unwelcomed.
- (3) Making reprisals, threats of reprisal, or implied threats of reprisal following a rebuff of harassing behavior. The following are examples of conduct in an academic environment that might be found to be sexual harassment: implying or actually withholding grades earned or deserved; suggesting a poor performance evaluation will be prepared; or suggesting a scholarship recommendation or college application will be denied.
- (4) Engaging in explicit or implicit coercive sexual behavior within the work environment which is used to control, influence, or affect the employee's career, salary, and/or work environment.
- (5) Engaging in explicit or implicit coercive sexual behavior within the educational environment that is used to control, influence, or affect the educational opportunities, grades, and/or learning environment of a student.
- (6) Offering favors or educational or employment benefits, such as grades or promotions, favorable performance evaluations, favorable assignments, favorable duties or shifts, recommendations, reclassifications, etc., in exchange for sexual favors.

Unlawful discrimination

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

LAKE TAHOE COMMUNITY COLLEGE DISTRICT

HUMAN RESOURCES

CONFIDENTIALITY ACKNOWLEDGEMENT STATEMENT

The Lake Tahoe Community College is interviewing me as an individual with possible knowledge of an alleged claim of Unlawful Discrimination or Harassment. 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. Failure to maintain confidentiality could result in violation of Federal or State regulations and incur liability on behalf of the District.

I understand that complainants and witnesses may be charged with allegations of defamation if they circulate the charges outside of the District's process. In general, persons who are participating in a District investigative or disciplinary process that is related to a charge of discrimination are protected from tort claims such as defamation. However, persons who make allegations outside of these processes or who discuss their claims with persons outside of the process may expose themselves to tort charges.

I also understand that I may be held personally responsible for any unauthorized disclosure of information on this investigation and would be subject to disciplinary action by the Lake Tahoe Community College, up to and including termination.

I understand that questions about this process should be referred to the Director of Human Resources or the Superintendent/President.

Name (Print)

SIGNATURE

DATE



Unlawful Discrimination Complaint Form

Name: _____
Last First

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

Phone: Day () Evening ()

I Am A: Student Employee Other: _____

I Wish To Complain Against:

District: _____ College: _____

Date of Most Recent Incident of Alleged Discrimination: _____

(Nonemployment complaints must be filed within one year of the date of the alleged unlawful discrimination. Employment complaints must be filed within six months of the date of the alleged unlawful discrimination)

I Allege Discrimination Based on the Following Category Protected under Title 5: (you must select at least one):

- | | | | |
|-----------------------------------|--|--|--|
| <input type="checkbox"/> Age | <input type="checkbox"/> Ethnic Group Identification | <input type="checkbox"/> Physical Disability | <input type="checkbox"/> Retaliation |
| <input type="checkbox"/> Ancestry | <input type="checkbox"/> Mental Disability | <input type="checkbox"/> Race | <input type="checkbox"/> Sex (includes Harassment) |
| <input type="checkbox"/> Color | <input type="checkbox"/> National Origin | <input type="checkbox"/> Religion | <input type="checkbox"/> Sexual Orientation |

Clearly state your complaint. Describe each incident of alleged discrimination separately. For each action provide the following information: 1) date(s) the discriminatory action occurred, 2) name of individual(s) who discriminated; 3) what happened; 4) witnesses (if any); and 5) why you believe the discrimination was because of protected group status [religion, age, race, sex or whatever basis you indicated above] and/or, if applicable, why you believe you were retaliated against for filing of complaint or asserting your rights. (Attach additional pages as necessary.)

What would you like the District to do as a result of your complaint -- what remedy are you seeking?: _____

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

Signature of Complainant

Date

Send **Original** to the District, or:

Chancellor's Office California Community College,
1102 Q Street, Sacramento, California 95814-6511
Attention: Legal Affairs Division

(Revised 2/02)