

**OHLONE COLLEGE**  
**TITLE IX COMPLAINT PROCEDURES**

**7.1 GENERAL PROVISIONS**

**7.1.1 Coverage**

- A. These procedures apply to all complaints which may arise in matters involving rights provided for under the Ohlone Community College District Title IX Policy. The policy commits the Ohlone Community College District to providing equal education and employment opportunity as required by Title IX of the Education Amendments of 1972.
- B. Matters relating to grades, matriculation, and academic discipline not involving Title IX shall be subject to separate proceedings.

**7.1.2 Eligibility**

Any eligible person believing they have been the recipient of a Title IX injustice through the action of a student, staff member, instructor, supervisor or other person acting in behalf of the Ohlone Community College District, may bring an informal or formal complaint under these procedures.

**7.1.3 Interpretation of Coverage**

- A. Where a dispute exists as to whether a particular matter is subject to coverage by these procedures, the Ohlone Community College District reserves the right to make the final judgment through the office of the President/Superintendent.
- B. The President/Superintendent will deny application of the procedures: Where the matter in question clearly involves issues of broad policy in which the complaining party has no direct interest; where the President/Superintendent has good reason to believe that a complaint has been brought in bad faith for political or similarly inappropriate reasons; or in other circumstances in which use of these procedures would clearly endanger their effectiveness as an instrument for the redress of complaints.

**7.1.4 Retaliatory Action**

Any retaliatory action of any kind taken by an employee or student of the Ohlone Community College District against any other employee or student of the Ohlone Community College District as a result of the person's seeking redress under these procedures, cooperating in an investigation, or other participation in any proceeding under these procedures is prohibited and shall be regarded as a separate and distinct complaint under these procedures.

**7.2 DEFINITIONS**

- A. Title IX Coordinator: The Vice President, Academic Affairs is designated to assure that all programs and activities of the Ohlone Community College District are free of any policy, procedure, practice, regulations, or similar guideline which may result in sex discrimination in violation of Title IX.
- B. Title IX, Education Amendments of 1972: A Federal law which states: "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any education program or activity receiving Federal assistance."

- C. Complaint: A synonym for disagreement or dispute.
- D. District: Ohlone Community College District.
- E. Employee: A person who receives payment for services rendered, and who is listed on a Ohlone Community College District payroll. (This does not include consultants.)
- F. Student: A person currently enrolled in any course at the Ohlone Community College District.
- G. Academically Deficient Student: A student whose grade point average for all work accomplished in the Ohlone Community College District is less than 2.0.
- H. Petitioner: The person who alleges that he/she has been discriminated against in violation of Title IX.
- I. Respondent: The party or parties charged by a petitioner with having discriminated in violation of his/her Title IX rights.

### 7.3 INFORMAL PROCEDURE

- A. The petitioner should first discuss his/her complaint with his/her immediate supervisor or counselor.
- B. If the Petitioner's complaint remains unresolved, he/she may discuss it with his/her supervisor's supervisor.
- C. If the circumstances of the complaint prevent using Steps A or B, or if the supervisor does not resolve the complaint within five (5) working days, the employee or student may discuss the complaint with the Title IX Coordinator.
- D. If an examination of the complaint finds that institutional policies, rules, or regulations have been violated, the Title IX Coordinator will bring the matter to the attention of the President, who shall take appropriate administrative steps to enforce the policies, rules, or regulations to resolve the complaint.
- E. If the Title IX Coordinator determines that the complaint involves a question of judgment or opinion not covered by College policies, rules, or regulations, the Title IX Coordinator may counsel with the President/ Superintendent and such other persons as may be appropriate to resolve the complaint.
- F. The informal procedure must be completed within ten (10) working days after the complaint is brought to the Title IX Coordinator unless the Coordinator extends the time for cause.

### 7.4 FORMAL PROCEDURE

(Amended 1-27-93)

#### 7.4.1 Title IX Complaint in Writing

- A. The formal procedure may be used when the Petitioner's complaint alleging Title IX discrimination has not been resolved by the informal procedure, or if the petitioner does not want to use the informal procedure.
- B. In either situation, the petitioner or respondent may submit a request in writing to the Title IX Coordinator to have the complaint or resolution considered under a formal procedure. The request shall state the alleged injustice, the circumstances, and the

informal resolution, if any.

#### 7.4.2 Procedure

The Title IX Coordinator will schedule a formal hearing within ten (10) working days, or as soon thereafter as practicable. When the formal hearing has been scheduled, the Title IX Coordinator will notify the respondent or petitioner of the date of the hearing and will furnish them with a copy of the written request.

#### 7.4.3 Hearing of the Title IX Complaint

- A. The Title IX Coordinator shall hold a hearing to hear the complaint and receive information from such witnesses as may be appropriate to evaluate the complaint. Proceedings shall be conducted in closed hearings unless both petitioner and respondent request open hearings.
- B. During the presentation of the information, testimony from witnesses, and arguments before the Title IX Coordinator, the petitioner and one accompanying person, and the respondent and one accompanying person shall have the right to be present. Unless the hearing has been designated as public, the proceedings shall be closed to all other persons.
- C. Any District office holding any information relevant to the complaint shall make such information available to the Title IX Coordinator for purposes of the hearing, so long as the release of such information is not in violation of legislation regarding privacy of records or the rights of others.
- D. Unless the proceedings have been designated as public, all information gained as a result of participation in the proceedings by the Title IX Coordinator, parties to the hearing, accompanying persons, or witnesses, shall be held in strictest confidence.
- E. All notes, statements, records, documents, or exhibits received during the hearings shall be secured in the office of the President/ Superintendent. They shall be retained for a period of three (3) years following the last official action in regard to the complaint, after which all such material shall be destroyed.
- F. Following the conclusion of the formal hearing, the Title IX Coordinator shall report his/her findings together with the rationale for the recommended disposition of the complaint in the form of a written statement to the President/Superintendent of the District.
- G. The Title IX Coordinator shall make every reasonable effort to reach a finding and present his/her recommendations to the President/ Superintendent within fifteen (15) working days, or as soon thereafter as practicable, following the commencement of the formal hearing.

#### 7.4.4 Appeal of Recommendations of the Title IX Coordinator

The petitioner or the respondent may appeal the recommendations of the Title IX Coordinator to the President/Superintendent. Such appeal shall be in writing and must be made within three (3) working days of the receipt of the recommendations.

#### 7.4.5 Decision by the President/Superintendent

The decision of the President/Superintendent shall be final, unless the petitioner or respondent shall make written appeal for review to the Board of Trustees within fifteen (15) working days of receipt of notification of the President/Superintendent's final decision.

## 7.5 APPEAL TO THE BOARD OF TRUSTEES

Appeal of decision of the President/Superintendent:

- A. Upon receipt of a written appeal of the final decision of the President/Superintendent, the Board of Trustees shall decide to hold a hearing to hear the appeal or to deny the appeal.
- B. Should the Board of Trustees decide to hold a hearing, such hearing shall be ordered within thirty (30) days, or as soon thereafter as practicable, after receipt of the appeal.

## 7.6 PROCEDURE FOR BOARD APPEAL HEARING

- A. All written documents concerning the complaint, hearings, and appeals shall be available to the Board of Trustees.
- B. Petitioner and respondent shall have the right to appear in person on their own behalf, with counsel, or with such representation as they consider necessary, and be heard.
- C. All appeal hearings shall be held in Closed Session of the Board of Trustees unless both petitioner and respondent request open hearings.
- D. The findings and decision of the Board of Trustees on said appeal shall be final and conclusive on all parties.
- E. If the appeal of the petitioner is sustained, the Board of Trustees shall direct the President/Superintendent to take the appropriate administrative steps to resolve the complaint.