

**LEGAL AFFAIRS DIVISION
CALIFORNIA COMMUNITY COLLEGES CHANCELLOR'S OFFICE**

Guidelines for Minimum Conditions Complaints

The Legislature requires the Board of Governors of the California Community Colleges to establish minimum conditions entitling districts to receive state aid. (Ed. Code, § 70901(b)(6).) These minimum conditions are contained in regulations that appear in title 5 of the California Code of Regulations at sections 51000-51027.

Districts have the primary responsibility to ensure their own compliance with all applicable laws, including the minimum conditions regulations. The Board of Governors further anticipates that when districts learn of allegations that they are not in compliance with minimum conditions, they will assess those allegations, and, if noncompliance exists, will take all steps necessary to come into compliance.

The Chancellor's Office is charged with enforcing district compliance with the minimum conditions. Pursuant to this enforcement authority, the Chancellor's Office conducts periodic reviews of districts' compliance with the minimum conditions regulations. The Chancellor's Office also accepts complaints that allege that a district is out of compliance. In an effort to ensure that complaints are addressed in a fair and equitable manner, the Chancellor's Office establishes the following general guidelines for accepting and processing complaints.¹

I. Who May File a Complaint?

Complaints may be filed by individuals who are directly affected by the alleged violation of a minimum condition regulation. For example, a student may file a complaint that an unauthorized student fee is being assessed.

Complaints may be filed by persons who have learned of a lack of compliance in their official capacities as district employees.

Complaints may be filed by district residents based on credible evidence of violations.

Where a minimum condition regulation addresses the rights of a group, only the group affected may file a complaint. For example, where the rights of an associated student organization to participate in a local governance process are at issue under title 5, section 51023.7, only that organization may file a complaint alleging a violation of those rights. Evidence that the organization itself is filing the complaint (as opposed to an individual member of the organization) will be required. Such evidence may be in the form of an organizational resolution, minutes of a meeting, or other similar indicia of official organizational action.

¹ These guidelines do not constitute regulations or district mandates of any sort.

Persons or organizations that file complaints in bad faith, or that file repeated groundless complaints concerning the same or similar issues, may be precluded from filing additional complaints for a prescribed period of time.

The Chancellor's Office may continue to review compliance with minimum conditions even if a complaint is withdrawn. The Chancellor's Office has authority independent of the complaint process to review district compliance.

II. When Must a Complaint Be Filed?

Complaints must ordinarily be filed within one calendar year of the occurrence of the alleged violation. The Chancellor's Office may accept complaints filed within 90 days after the one-year period if the complaining party demonstrates that he/she first learned of the alleged violation after the expiration of that period.

III. What is the Proper Form of a Complaint?

Formal complaints must be in writing and signed by the person who is making the complaint or by a person with authority to sign on behalf of an organization that is making the complaint.

Complaints must set out specific alleged facts, which if true, would constitute a violation of one or more specific minimum condition regulations. Complaints that do not, on their face, state a cognizable violation of a specific minimum condition may be rejected.

Complaints must identify the concrete adverse consequences or harm that has or will flow from a violation of the regulations.

Complaints must be accompanied by documentary evidence demonstrating that the person or organization filing the complaint made previous reasonable, but unsuccessful, efforts to resolve the alleged violation at the college and/or district level.

Complaints related to the role of academic senates and faculty councils must ordinarily be accompanied by documentary evidence demonstrating that the parties attempted to resolve the complaint with the assistance of the State Academic Senate or Community College League of California. This evidence of local efforts to resolve the complaint should show that the representative group – the Statewide Academic Senate or the Community College League – was contacted for advice. The refusal of a party to participate in technical assistance efforts available through the process established by the Statewide Academic Senate and the League may be taken into consideration in determining whether the Chancellor's Office accepts a complaint.

IV. What Happens After a Complaint is Accepted?

The Chancellor's Office's General Counsel coordinates the investigation of credible complaints and recommends corrective action if needed. Investigations will be

completed as quickly as possible, but no guarantees can be made regarding timelines for investigations. Persons or organizations considering the pursuit of other remedies for alleged violations must not rely on the completion of a Chancellor's Office investigation within any given time frame.

Complaints are shared with the district that is alleged to have violated a minimum condition. Districts are given an opportunity to provide their position regarding the complaint and to provide information in support of that position.

Complaints are usually approached initially on an informal level to determine whether an immediate resolution of the complaint can be found.

The Chancellor's Office considers its investigations confidential so as to encourage the use of the complaint process and to preserve its ability to conduct investigations. However, such confidentiality cannot be guaranteed where public interests in disclosure exist.

Should a party fail or refuse to provide information relative to complaint allegations, the Chancellor's Office may make determinations on the basis of allegations or information presented and/or may draw inferences that the information was not provided because it would be adverse to the party.

The Chancellor's Office does not conduct formal administrative hearings as part of its investigative process.

The Chancellor's Office reserves the right to determine the appropriateness of any remedial action notwithstanding any remedy sought by a complainant. The Chancellor's Office has no authority under Title 5 to award monetary damages to individuals or organizations, and does not intend that its investigative process be exhausted before a party may pursue judicial review.

A summary of findings and/or actions taken is provided to the complainant.

V. When Are Complaints Considered Resolved?

Complaints are considered resolved when a district can demonstrate compliance with the regulation that is at issue in the complaint or when a resolution satisfactory to the Chancellor's Office has been achieved.

Complaints are resolved if they are withdrawn by the person or organization that filed the complaint. As noted above, the Chancellor's Office may still proceed to make a determination of compliance and take appropriate action.

Complaints are resolved through dismissal if the complainant fails to cooperate fully in the investigation of the complaint.

Complaints may be resolved temporarily or permanently by deferral if the matter is pursued in another forum having jurisdiction. For example, if a party seeks judicial intervention, the Chancellor's Office may defer to the courts.

Please direct comments or questions to:

Legal Affairs Division
Chancellor's Office
California Community Colleges
1102 Q Street
Sacramento, CA 95811-6549

(916) 455- 4826
legalaffairs@cccco.edu