



**MARICOPA**  
COMMUNITY COLLEGES

Office of the  
General Counsel  
Compliance

## ENFORCEMENT AGENCIES AND WHAT THEY DO

This month's Melissa's Talks will cover a requested topic. I love to get emails with suggestions for topics because I am able to both answer individual questions as well as share information across the District that may clarify confusion, teach new things, or spark more topic suggestions. Please know that you can always email Robert Bienkowski topic suggestions. When he receives topic suggestions (or questions in need of answering), he schedules them on the Melissa Talks website ([Melissa Talks | Maricopa Community Colleges](#)). Please keep sending questions and topic suggestions.

The topic for today will cover enforcement agencies and outline what they do. We are going to talk specifically about the Office for Civil Rights, the Arizona Civil Rights Division (ACRD), the Equal Employment Opportunity Commission (EEOC), and the Office of Inspector General (OIG).

### **Office for Civil Rights (OCR)**

The Office for Civil Rights is an Executive Department Sub-Office/Agency/Bureau. There are three Offices for Civil Rights. One is a Division of the Department of Justice. This office is responsible for enforcing federal statutes that prohibit discrimination based on race, color, religion, sex, disability or national origin. One example of enforcement is when the police department is accused of racial discrimination in its hiring practices. The second is a division of the Department of Health and Human Services. This Office for Civil Rights helps to protect you from discrimination in certain healthcare and social service programs. One example of a case where the HHS OCR would investigate is if you believe your health care provider violated your religious freedom by coercing you to receive a blood transfusion.

The third is a Division of the Department of Education. This is the OCR we are focused on for this discussion. The Office for Civil Rights enforces several Federal civil rights laws that prohibit discrimination in programs or activities that receive federal financial assistance from the Department of Education. OCR enforces the following laws:

- Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color or national origin;
- Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex;
- Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability;
- Age Discrimination Act of 1975, which prohibits discrimination on the basis of age;

- Title II of the Americans with Disabilities Act of 1990, which prohibits discrimination by public entities on the basis of disability (whether or not they receive federal financial assistance);
- Boy Scouts of America Equal Access Act, which prohibits denial of access to or other discrimination against the Boy Scouts or other Title 36 U.S.C. youth groups in public elementary schools, public secondary schools, local education agencies, and state education agencies that have a designated open forum or limited public forum. Under the Boy Scouts of America Equal Access Act, no public elementary school or State or local education agency that provides an opportunity for one or more outside youth or community groups to meet on school premises or in school facilities before or after school hours shall deny equal access or a fair opportunity to meet to, or discriminate against, any group officially affiliated with the Boy Scouts of America, or any other youth group listed in Title 36 of the United States Code as a patriotic society.

A complaint of discrimination can be filed by anyone who believes that an education institution that receives Federal financial assistance has discriminated against someone on the basis of race, color, national origin, sex, disability, or age. The person or organization filing the complaint need not be a victim of the alleged discrimination, but may complain on behalf of another person or group.

Most of OCR's activities are conducted by its 12 enforcement offices throughout the country. These enforcement offices are organized into four divisions carrying out OCR's core work -- preventing, identifying, ending, and remedying discrimination against America's students.

When a complaint is filed against one of the MCCCCD colleges, the OCR will review the complaint to determine whether there is jurisdiction to investigate the complaint. In reviewing jurisdiction, the OCR will consult its Case Processing Manual (revised in 2022). The Case Processing Manual (CPM) provides the OCR with the procedures to promptly and effectively investigate and resolve complaints, compliance reviews, and directed investigations to ensure compliance with the civil rights laws OCR enforces. The OCR will determine such things as subject matter jurisdiction, personal jurisdiction, the timeliness of the allegation(s), and whether to close or dismiss any allegations. The OCR will always offer an alternative resolution process, such as mediation, to resolve the complaint. If a complaint is not resolved through mediation, the OCR will investigate the allegations being made. The District will be asked to provide a Position Statement—its response to the allegations—as well as a data request to be completed. The data request pulls relevant information for agency review. The investigation can include a site visit and interviews with key employees. At the end of the investigation, the OCR will issue a Letter of Findings. If a violation is found, a Resolution Agreement will be negotiated to determine what steps need to be taken to remediate the findings. The allegation(s) will be considered resolved and the recipient deemed compliant when the recipient complies with all of the terms of the resolution agreement and is in compliance with the statute(s) and regulation(s) that were at issue in the case.

The OCR can also initiate a compliance review to assess the practices of recipients to determine whether they comply with federal regulations prohibiting discrimination on the basis of gender, race, color, or national origin. The initiation date for the compliance review is the date of the letter notifying the recipient of the compliance review. While there are no specific allegations being made when the OCR initiates a compliance review, if noncompliance is found, a Resolution Agreement may be reached.

When OCR is unable to negotiate a resolution agreement with the recipient or where the recipient has failed to comply with the terms of a resolution agreement, OCR will initiate enforcement action by (1) initiating

administrative proceedings to suspend, terminate, or refuse to grant or continue federal financial assistance or, with respect to the Boy Scouts Act, funds made available through the Department to the recipient; or (2) referring the case to the Department of Justice for judicial proceedings to enforce any rights of the United States under any law of the United States, which could include criminal charges, fines, and the suspension of federal financial assistance.

The OCR prohibits retaliation against any person who engages in a protected activity. Examples of protected activities include, but are not limited to, filing a Charge of Discrimination with the Division, participating in an investigation, or filing a complaint.

### **Arizona Attorney General's Office, Civil Rights Division**

The Civil Rights Division (CRD) of the Arizona Attorney General's Office is tasked with enforcing civil rights laws, providing dispute resolution services, increasing public awareness of civil rights, and offering community services throughout Arizona. Their duty is to investigate civil rights complaints and enforce Arizona's statutes that prohibit discrimination in employment, housing, disability, public accommodations, and voting on the basis of race, color, national origin, gender, religion, disability, ancestry (in voting and public accommodations only) and family (in housing only). The ACRD offers mediation programs and conflict resolution services across the state, including a number of court and agency programs.

While investigating complaints is a top priority, the CRD actively addresses discriminatory activity through educational awareness programs. The CRD conducts surveys and inquiries to eliminate discrimination in Arizona, and publishes a variety of reports to highlight key civil rights issues for citizens and lawmakers. The Division has both administrative and enforcement functions. Its staff is comprised of lawyers, compliance officers, program coordinators, support personnel, volunteer mediators and interns.

There are seven steps to an ACRD discrimination complaint. The first is a charge of discrimination. When a complaint is filed, the District will receive a Charge of Discrimination that outlines the allegations being made. The second step is mediation. Both parties must agree to mediate. This process is intended to resolve the dispute. If the parties cannot resolve the dispute through mediation, the third step kicks in and the Charge of Discrimination will be investigated by a Division representative. During its investigation, the Division may request/subpoena witnesses and documents, and interview witnesses. The fourth step is the issuing of a Reasonable Cause Determination or a dismissal of the case. Even if a case is dismissed, the complainant is given a Right to Sue letter. At that point, they can initiate legal action. If there is substantiation of the allegations, the ACRD will work with the District towards remediation, this is the fifth step--conciliation.

The sixth step occurs only when the Charge of Discrimination is dismissed. A complainant has 2 weeks to request reconsideration. If the Division reopens the case, the investigation will continue. If the Division denies the request, the dismissal remains. The final step is litigation. Litigation is where a complaint is filed in an Arizona court. If conciliation fails, the Division may file a lawsuit. Whether or not the Division files a lawsuit, the complainant has the right to file their own lawsuit.

#### **Protected class employment discrimination:**

Failing or refusing to hire or discharging individuals

Providing different pay, benefits, or other terms and conditions of employment

Segregating jobs or work sites

## Sexual harassment

- Engaging in or tolerating harassment because of race, color, national origin, religion, age, or disability
- Failing to provide a reasonable accommodation for disabled persons
- Treating people differently because they have complained about discrimination
- Treating an individual less favorably because of the results of genetic testing
- Advertising discriminatory preferences for employees

## Protected class housing discrimination:

- Refusing to show, rent, or sell
- Refusing to negotiate
- Charging more to buy, rent, or asking for a larger security deposit
- Advising that the property is no longer for sale or rent when it really is
- Advertising that only a certain type of person can buy or rent
- Denying access or use of the facility, privileges, or services that are available with occupancy
- Telling owners or renters to move because the neighborhood is being integrated
- Suggesting you move to an area where you don't want to live
- Allowing unlawful bias to affect the appraisal of a property
- Imposing or using different loan terms or conditions
- Refusing to allow disability accommodations for an assistive aide, assistive animal, parking, or physical modifications

## Protected class public accommodations discrimination:

- Failing to allow entrance
- Inability to enter due to physical barriers
- Unequal treatment based on a protected class
- Unequal goods, services, facilities, privileges, advantages, or accommodations
- Failing to modify policies, practices, or procedures to afford equal services, goods, facilities, privileges, or advantages for an individual with a disability, or an individual associated with an individual with a disability

## Protected class voting discrimination:

- Denying an individual the opportunity to register to vote
- Imposing on any person literacy or other test as a condition for voting
- In some circumstances, failing to provide a ballot or voting information in a language other than English
- Denying an individual the right to vote
- Failing to provide a reasonable accommodation when necessary based on a disability

The ACRD prohibits retaliation in employment, housing, and disability claims in public accommodations. Retaliation is punishment in response to an individual's protected activity. Examples of protected activities include, but are not limited to, filing a Charge of Discrimination with the Division, participating in an investigation, or filing a complaint with an employer, housing provider, or public accommodation.

## **Equal Employment Opportunity Commission (EEOC)**

When employment discrimination claims are available under both federal and state law, the Charge of Discrimination is dual-filed with the EEOC and the Division. There are two exceptions to this rule because only Arizona civil rights laws prohibit: (1) sexual harassment when the employer has less than 15 employees, and (2) age discrimination by an employer with greater than 15 and less than 20 employees.

The EEOC is a federal governmental agency (first created in the Civil Rights Act of 1964) that is responsible for enforcing federal laws that make it illegal to discriminate against a job applicant or employee because of the applicant/employee's race, color, religion, sex (including pregnancy, transgender status, and sexual orientation), national origin, age (40 or older), disability or genetic information. The EEOC is located in Washington D.C. and has 53 field offices with specific jurisdiction across the country.

The EEOC has the authority to investigate charges of discrimination against employers who are covered by the law. Our role in an investigation is to fairly and accurately assess the allegations in the charge and then make a finding. The EEOC also works to prevent discrimination before it occurs through outreach, education, and technical assistance programs.

The EEOC provides leadership and guidance to federal agencies on all aspects of the federal government's equal employment opportunity program. EEOC assures federal agency and department compliance with EEOC regulations, provides technical assistance to federal agencies concerning EEO complaint adjudication, monitors and evaluates federal agencies' affirmative employment programs, develops and distributes federal sector educational materials and conducts training for stakeholders, provides guidance and assistance to our Administrative Judges who conduct hearings on EEO complaints, and adjudicates appeals from administrative decisions made by federal agencies on EEO complaints. The steps to an EEOC Charge of Discrimination are substantially similar to those outlined in the above section.

### **Office of Inspector General (OIG)**

The Office of Inspector General is part of the U.S. Government Accountability Office. We will talk specifically about the OIG for the Department of Education. The Office of Inspector General (OIG) is an independent entity within the U.S. Department of Education (ED) responsible for identifying fraud, waste, abuse, and criminal activity involving ED funds, programs, and operations. The OIG conducts independent audits and other reviews and criminal and civil investigations and recommends actions to address systemic weaknesses and improve ED programs and operations. It also recommends changes needed in Federal laws and regulations.

The OIG investigates allegations of violations of Federal laws, rules, and regulations pertaining to ED programs and funding, including complaints involving ED employees, recipients of ED funds, schools, school officials, other educational institutions, contractors, lending institutions, collections agencies, or public officials. This includes, but not limited to:

- Embezzlement, bribery, or other public corruption involving ED funds
- Serious mismanagement involving ED programs or funds
- Theft or misuse of Federal student aid
- Knowledge of fraud, waste, or abuse involving a financial aid administrator or other school official(s)
- Knowledge of fraud, waste, or abuse involving a student loan servicer or collection agency
- Knowledge that your school is not complying with regulations or laws involving Federal student aid or other ED program or operation
- Whistleblower reprisal (if you are an ED employee, also report reprisal to the Office of Special Counsel)
- Conflicts of interest
- Contract and procurement irregularities

Theft or abuse of government property  
Employee misconduct  
Ethics violations by ED officials

Complaints come in two forms. The first is a complaint filed via the OIG Hotline or directly to the agency. The second is an agency-initiated audit. OIG staff will evaluate the complaint and may refer it for further OIG investigation, audit, or other review. The OIG may even refer the complaint to another office within ED or to an external entity, as appropriate.

At the end of an investigation or compliance review, the OIG may refer a case to the Department of Justice for prosecution.

I hope you have learned something new about these government agencies and what they do. If you have any questions, please feel free to reach out.

#### References:

[Office for Civil Rights | U.S. Department of Education](#)  
[Case Processing Manual \(PDF\) \(ed.gov\)](#)  
[Civil Rights Laws | Arizona Attorney General \(azag.gov\)](#)  
[Overview | U.S. Equal Employment Opportunity Commission \(eoc.gov\)](#)  
[ED Office of Inspector General Hotline](#)



**Melissa Flores**

**MARICOPA COMMUNITY COLLEGES**

Sr. Associate General Counsel | Office of the General Counsel

2411 West 14th Street, Tempe, AZ 85281

[Melissa.Flores@domail.maricopa.edu](mailto:Melissa.Flores@domail.maricopa.edu)

<https://www.maricopa.edu/>

O: [480-731-8418](tel:480-731-8418) | M: [801-557-1657](tel:801-557-1657)