# **Miramar Classified Senate Ethics Complaint Process**

**Purpose**

In many organizations and governance structures it is understood that members of such organizations and structures abide by established rules of conduct and decorum, and behave in an ethical manner. Organizations reserve the right to make and enforce their own rules, and ask that members refrain from conduct that is injurious to the organization and its established purposes. The San Diego Miramar College Classified Senate, as a functioning component of the San Diego Miramar College Shared Governance structure, has established the following process to resolve Code of Conduct and Ethical Complaints.

Chapter 20 of Robert’s Rules of Order will serve as the basis for the complaint and remedy component of this process.

**Process**

Behavior that is contrary to the Code of Ethics will be brought to the attention of the Classified Senate President, Vice President, and the Secretary in writing via (insert established form). The Classified Senate President will discuss the matter with the member in question and may establish the Ethics Committee to review the issue if warranted, which may include officers of the Classified Senate, or the Site Compliance Officer for review. It is in the best interest of the organization to handle complaints in an informal manner before proceeding to formal action.

The following steps outline the procedural flow of the complaint process:

1. **Filing a Complaint**
2. In the event a member of the Classified Professionals body believes an Officer, Senator, or Appointee of the Classified Senate has violated the Code of Ethics, as established by the Classified Senate, a member may file a written complaint with the Classified Senate President.
3. If the Classified Senate President is involved in the alleged violation, then the Classified Senate Vice President will perform the role of President for the purposes of these Procedures.
4. The complaint must be filed within ten (10) business days before the end of the semester during which the person(s) filing the complaint (the complainant(s)) became aware of the alleged violation.
5. Official communication between the parties involved with an ethics investigation will be sent by District email and identified as confidential. The findings of the Professional Ethics Subcommittee will be sent through District mail with copies to the Senate office.
6. The complainant(s) must:
	1. Identify the specific ethical standard(s) violated;
	2. Include a brief synopsis of the offense and describe how it violates the ethical standard(s) cited;
	3. Attach relevant documentation related to the alleged ethics violation(s) that support the complaint;
	4. Identify steps taken to resolve the situation prior to filing the complaint and list outcomes for each
	5. Identify the specific action(s) requested to resolve the complaint.
7. The complaint shall be maintained as confidential by the Classified Senate President, the Ethics Subcommittee, and by all others who are described in these procedures.

**B. Resolution or Referral**

1. The Classified Senate President will evaluate the complaint to determine if:
	1. The case falls under the jurisdiction of the Ethics Committee, and if so,
	2. The complaint statement and documentation provides adequate clarity to inform the Committee regarding the perceived ethics violation. If not, then the complainant(s) may be asked for further clarification. The complainant(s) must provide the information asked for in an expeditious manner not to exceed one week.
2. The Classified Senate President, when deemed appropriate, may attempt to directly resolve the issues raised by the complainant(s) who initiated the complaint.
3. If the Classified Senate President is unable to resolve the issue between the parties, the complaint will be referred to the Ethics Committee for further review.
4. If the complaint is not within the scope of an ethics violation, then a referral will be made to the appropriate personnel and/or office. Personnel/Offices may include, but are not limited to:
	1. San Diego Miramar College Site Compliance Officer – for violations of District policies regarding unlawful discrimination or sexual harassment.
	2. AFT Liaison Officer – for complaints regarding possible violations of the Collective Bargaining Agreement.
	3. Department Chair and/or Supervising Administrator – for violations of department policies and/or procedures.

**C. Convening of Professional Ethics Subcommittee**

1. For each complaint filed, the Classified Senate President will appoint and call a meeting of a Professional Ethics Subcommittee of five (5) from the standing Profession Ethics Committee within twenty-five (25) instructional days of the filing of a complaint. The Subcommittee will include at least one (1) Academic Senate member.

2. The Subcommittee will conduct a preliminary review and determine whether or not the complaint shows a violation of the Classified Professionals Ethics Code and warrants investigation.

3. If, upon preliminary review, committee members feel they have a potential conflict of interest, they should ask to recuse themselves. The Classified Senate President can also ask a committee member to step down if he or she determines that there is a potential conflict. The complainant(s), without cause, also may ask that one member of the Subcommittee be replaced. Committee members are listed on the Senate website.

4. Within ten (10) instructional days of the Subcommittee’s decision to move forward with the investigation, the parties to the complaint will be notified in writing by the Academic Senate President that the Professional Ethics Committee will investigate the complaint.

a. If the Subcommittee decides an investigation is not warranted, the complaint, along with a written statement of the reasons not to proceed, will be returned to the Classified Senate President for dismissal or referral to the appropriate body. The complainant(s) and any other parties being directly affected or who are directly involved in the case will then be notified of the decision not to proceed.

 b. If the decision is to proceed with an investigation, the Subcommittee will appoint a Chair and forward the Chair’s name to the Classified Senate President. The Classified Senate President will notify in writing the person against whom the complaint was filed (the respondent) that a complaint has been made. The Subcommittee will develop a schedule for review, send it to all concerned parties, and will complete its work expeditiously. The respondent will also be sent a copy of the complaint, the Classified Professional Ethics Code and the Classified Senate Professional Ethics Procedures (this document) by District email.

5. The respondent has the right to ask that one member of the Ethics Subcommittee to be replaced without cause (committee members are listed on the Senate website).

**D. Professional Ethics Subcommittee Investigation**

1. The Subcommittee will establish a plan for investigating the complaint.

2. All of the Subcommittee’s meetings shall be in closed session.

3. Attendance at the meetings shall be limited to the Subcommittee and the active parties of the complaint except when one or both parties requests representation or when the Subcommittee needs to question witnesses.

4. The meetings need not be conducted according to rules of evidence. The Subcommittee will admit only evidence and information that reasonable and responsible persons would deem relevant. The Subcommittee will make every effort to conduct the review in an unbiased manner.

5. The Subcommittee may do the following:

a. Interview the complainant(s), and other parties. If the Subcommittee interviews the complainant(s) and the committee chooses to proceed with the case, then the Subcommittee must also interview the respondent and accept documentation from both.

b. Gather additional information. Both parties can provide witnesses if desired. If witnesses are called by either party, then the other will be notified and be given the opportunity to call his or her own witnesses.

c. Conduct meetings with parties involved in the complaint.

d. Mediate discussions between the parties of the complaint.

e. Confer with the Site Compliance Officer if necessary. The Site Compliance Officer can forward a complaint based on the established merits of the complaint after review.

6. If in the course of its investigation the Subcommittee uncovers evidence of violation of current/established Classified Senate policies and procedures, the chair of the committee will present those parts of the investigation to the Classified Senate President or Classified Senate Vice President, who will then bring that evidence to the appropriate body or campus personnel.

7. Throughout the process should any evidence arise suggesting that these guidelines are not being followed, in order to achieve a fair resolution, the Classified Senate President or Classified Senate Vice President will intervene and if necessary establish a new subcommittee to hear the complaint.

**E. Response / Recommendation / Resolution**

1. The Subcommittee will consider appropriate resolution(s), which may include specific

 recommendations to the involved parties, the Classified Senate President and/or Classified

 Senate Vice President.

2. These recommendations could include actions to be undertaken by the individual parties;

 follow-up activities, which may be required within a specified period of time; and/or

 actions to be taken by the Classified Senate, including but not limited to the following, in

 increasing order of seriousness:

a. Request to offending Classified Professional that they halt the behavior

b. Request for a formal apology from offending Classified Professional

c. Removal or barring the offending Classified Professional for a specified period from serving on the Classified Senate, Classified Senate Committees, or Shared Governance Committees.

d. Request the parties in the complaint engage in mediation assistance with Supervisory/Management support.

3. In egregious cases:

a. The Classified Senate can publicly censure the offending Classified Senate Officer

 or Senator.

 b. Formal notification of the offense can be given to the College President.

 c. A formal recall process can be initiated by the Classified Senate to remove the

 Senator or Executive Officer.

4. The Subcommittee will render a written decision specifying the reasons and citing the provision(s) of the Classified Senate Professional Ethics Code that have been violated. The decision of the Subcommittee will be sent to the Classified Senate President and/or Classified Senate Vice President who will then review the finding. Following the review, the Classified Senate President and/or Classified Senate Vice President will inform the necessary parties of the Subcommittee’s decision in writing and may choose to convene a meeting of the parties.

5. The Classified Senate President may accept the findings of the Subcommittee. If recommendations are not accepted in full by the Classified Senate President or Vice President, a written response including rationale will be provided to the committee members.

6. The respondent will have thirty (30) days from receipt of the notification in which to submit a response. The response must be signed by the respondent.

7. All ethics reports, including sanctions put in place as determined by the Ethics Subcommittee, will be kept on file by the Classified Senate office. These records are not to become part of a Classified Professional’s personnel file as kept by District Management.

8. If the complaint is placed on the Classified Senate agenda as an action item, such as in the cases of public censure or Recall initiation, then the parties involved will be notified at least fifteen (15) days prior to the date of that meeting.

4-12-24

Language pulled from Bylaws to be incorporated into ethics process:

## XI. RECALL

12.1. Any officer may be recalled from the Classified Senate. The Procedure is as follows:

1. A motion for recall of a specific officer must be made and seconded by members of the Classified Senate at a regular meeting of the Senate. Discussion and clarification will immediately follow the motion and shall be recorded in the official minutes of the Senate.
2. If 2/3’s of all senators of the Classified Senate concur, the officer shall then be recalled.
3. The Elections Committee shall then conduct an election to fill the vacant position.
4. Valid reasons to request a recall are anything that causes separation from the District, misappropriation of funds, or non-performance of duties as outlined in the constitution.

12.2 This Constitution and By-laws may be amended in the following ways:

1. An amendment may be proposed in writing to the Executive Council by the following:
	1. Amendments and Bylaws Committee
	2. Executive Council
	3. Any member of the Classified Senate
2. After consideration by the Executive Council, the proposed amendment shall be submitted at the next Classified Senate meeting.
3. An amendment may be proposed at any general meeting of the Classified Senate. If approved by a majority vote, it shall be submitted to the Classified Senate by poll according to the Election Procedure (Article IX).
4. ADOPTION. A three-fifths (3/5) majority of the balloted votes cast by all eligible classified senate members shall be required for adoption of an amendment, and an amendment shall become effective upon such adoption.