

**JUNE SHELDON**  
**[Address Redacted]**

February 12, 2008

I am fifty-seven (57) years of age.

[Family information redacted]

I received my Bachelor of Arts degree from San Jose State University *in Molecular Biology* in 1975 and my Master's Degree in Biology, San Jose State University, in 1978.

I have been a member of the adjunct faculty of San Jose City College since January 2004. During that time I have taught classes in the Department of Biology. I have also taught for *Evergreen from 1986 to 1993 in Chemistry and Biology*.

A copy of my resume is attached to this letter as EXHIBIT 1.

During my tenure at *the District*, I have not been disciplined or received an evaluation of "needs improvement" nor have I received a notice of an entry of derogatory information into my personnel file.<sup>1</sup>

My personnel file, which I last inspected on February 11, 2008, **does not** contain a student or community member complaint.

On December 19, 2007<sup>2</sup>, at approximately 5:30 P.M., I received a letter from Anita L. Morris, Vice Chancellor, Human Resources, which notified me of the college's decision to terminate my employment. A copy of Vice-Chancellor Morris' letter is attached as EXHIBIT 3.

The letter refers to "a student *complaint* regarding statements you made in your Human Heredity regarding *homosexuality*" and makes reference to an "investigation" which "sustained the *complaint*." (Emphasis added).

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<sup>1</sup> Copies of the most recent documents placed my personnel file are attached to this letter as *EXHIBIT 2*

<sup>2</sup> The last day of the Fall 2007 Semester was December 21, 2007. The campus was closed for business until January 2, 2008.

**A. A COMPLAINT OF UNLAWFUL DISCRIMINATION WAS NOT FILED AGAINST ME**

Vice Chancellor Morris' letter states that the "student complaint," used as the basis for the College's action against me, regarded statements made by me in my Summer 2007 "Human Heredity" class on the subject of homosexuality. (EXHIBIT 3).

San Jose/Evergreen Community College District ("Evergreen") has adopted interim administrative procedures for the *Investigation and Resolution of Complaints Regarding Harassment and Unlawful Discrimination* ("procedures") a copy of which is attached as part of EXHIBIT 4.

To the best of my knowledge EXHIBIT 4 is the exclusive campus procedure for the filing, receipt, investigation, and resolution of complaint of Discrimination.

The procedures govern the filing and processing of charges of unlawful discrimination at Evergreen College[should you say here San Jose/Evergreen Community College District] based on " ethnic group, group identification, race, color, language, accent, immigration, status, ancestry, national origin, age, gender, religion, sexual orientation, transgender, marital status, veteran status, medical condition, physical or mental disability, and sexual harassment." (Emphasis added)

The College's procedures, which comply with Title 5, California Code of Regulations, Section 59322<sup>3</sup>, incorporate legal principles contained in nondiscrimination provisions of the California Code of Regulations, Title 5, sections 59300 et seq. <sup>4</sup>as well as other state and federal substantive and procedural requirements.

The College's procedures contain both an "informal process" of resolution and a "formal process"<sup>5</sup> for the investigation of written complaints of discrimination.

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<sup>3</sup> Also see, *Nondiscrimination Compliant Processing, (Legal Advisory 04-04), California Community College, Chancellor's Office (September 15, 2004), Page 5 "Policies and Procedures"* referred to herein as "Legal Advisory 04-04."

<sup>4</sup> All future references to sections of Title 5, California Code of Regulations shall be made as follows: *Section (number)*

<sup>5</sup> See: *Section 59327 ("Informal Resolution")* and *Section 59328 ("Formal Investigation Upon Filing of Written Complaint")*.

Under the College’s procedures an “individual” who “has reason to believe that he or she may have been a victim of harassment or discrimination...may resolve the matter through an informal process which is optional and not a prerequisite to filing a formal complaint.”(EXHIBIT 4:“Informal Process”) (Emphasis added)

The College’s procedures provide an individual who has a charge of discrimination the option to pursue an “informal process”. The process must lead to the resolution of the charge ***within thirty (30) calendar days***<sup>6</sup> from the date it is submitted.

The steps in the “informal resolution process “are as follows<sup>7</sup>:

1. A PERSON WHO ALLEGES THAT HE OR SHE HAS PERSONALLY SUFFERED HARASSMENT OR DISCRIMINATION WOULD LIKE ASSISTANCE IN DETERMINING WHETHER OR NOT HE OR SHE HAS BEEN OR IS A VICTIM OF HARASSMENT OR DISCRIMINATION SHOULD BE REFERRED TO THE DESIGNATED CAMPUS OFFICER<sup>8</sup> AT THE CAMPUS AT WHICH HE OR SHE IS EMPLOYED, WHERE THE INCIDENT OCCURRED, OR AT WHICH HE OR SHE IS A STUDENT, OR MAY CONTACT THE DISTRICT OFFICER DIRECTLY TO DISCUSS HIS OR HER CONCERNS. DISTRICT OFFICE EMPLOYEES SHOULD CONTACT THE DISTRICT OFFICE. (EMPHASIS ADDED)

*I was never informed if the person who submitted the document which is referred to as the “complaint” met with or was interviewed by the designated campus or district officer.*

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It should be noted that the term *complaint* is specifically defined in *Section 59311* as “a written and signed statement meeting the requirements of section 59328 that alleges unlawful discrimination in violation of this subchapter.” As such the term is not used in *Section 59327* but only in connection with the processing of a formal complaint under *Section 59328*.

A *complaint*, as that term is defined in the applicable regulations, was not filed in this case.

<sup>6</sup> Section 59311(c) defines *days* as “calendar days.” The procedure (*Exhibit 4*) provides for “extensions” to the 90 day and 150 day time limits which govern the processing of a formal complaint but not in connection with the process of “informal resolution” Also see Legal Advisory 04-04, Page 4 “Extensions of Time” and *Section 59342*.

<sup>7</sup> Each step of the process is listed. The College “nondiscrimination complaint” procedure is in “SMALL CAPS” and my response, with reference to supporting documents, follows in *italics*.

<sup>8</sup> See EXHIBIT 4 (A): Page 5; Section 59324; and, EXHIBIT 4 (D) Page 3.

2. THE CAMPUS OR DISTRICT OFFICER SHALL MEET WITH THE CONCERNED INDIVIDUAL TO:
  - A. UNDERSTAND THE NATURE OF THE COMPLAINT,
  - B. UNDERTAKE EFFORTS TO INFORMALLY RESOLVE THE CHARGES.
  - C. ADVISE THE COMPLAINANT THAT HE OR SHE NEED NOT PARTICIPATE IN THE INFORMAL RESOLUTION.
  - D. NOTIFY COMPLAINANT OF HIS OR HER RIGHT TO FILE A FORMAL COMPLAINT AND PROVIDE THE COMPLAINANT WITH A COPY OF THE DISTRICT'S DISCRIMINATION AND SEXUAL HARASSMENT POLICIES AND PROCEDURES.
  - E. ASSIST THE INDIVIDUAL IN ANY WAY ADVISABLE, AND INFORM THE CONCERNED INDIVIDUAL THAT HE OR SHE MAY ALSO FILE A NON-EMPLOYMENT-BASED-COMPLAINT WITH THE OFFICE FOR CIVIL RIGHTS OF THE U.S. DEPARTMENT OF EDUCATION (OCR), AND THAT EMPLOYMENT-BASED COMPLAINTS MAY BE FILED WITH THE CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING (DFEH), OR THE U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)

*I do not know if the person who made the anonymous allegations met with the designated campus or district officer. To discuss the charges. Therefore, I do not know if she/he was advised of the items discussed in 2 (a)-(e).*

3. THE CAMPUS OR DISTRICT OFFICER SHALL NOTIFY THE RESPONDENT OF THE COMPLAINT WITHIN TEN (10) WORKING DAYS, OR, IF THE RESPONDENT IS ON LEAVE OR NOT SCHEDULED TO WORK, AND UNABLE TO BE CONTACTED, WITHIN 10 DAYS<sup>9</sup> OF HIS/HER FIRST WORKING DAY. EFFORTS AT INFORMAL RESOLUTION NEED NOT INCLUDE ANY INVESTIGATION UNLESS THE RESPONSIBLE CAMPUS OR DISTRICT OFFICER DETERMINES THAT AN INVESTIGATION IS WARRANTED. IF THE PARTIES AGREE TO A PROPOSED RESOLUTION THAT DOES NOT INCLUDE DISCIPLINARY ACTION, THE RESOLUTION SHALL BE IMPLEMENTED AND THE INFORMAL PROCESS SHALL BE CONCLUDED. IF THE PARTIES REACH AN AGREEMENT RESOLVING THE COMPLAINT, A LETTER SUMMARIZING THE INFORMAL INVESTIGATION AND THE RESOLUTION AGREED UPON SHALL BE SENT TO THE COMPLAINANT AND THE RESPONDENT, AND KEPT AS A PART OF THE DISTRICT RECORD. HOWEVER, THIS SHALL NOT BE PART OF THE PERSONNEL FILE UNLESS IT IS INCLUDED AS A DISCIPLINARY ACTION,

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<sup>9</sup> Section 59311 defines the term "days" as "calendar days."

SUBJECT TO THE CONDITIONS OF THE COLLECTIVE BARGAINING AGREEMENTS.

**(a) INITIAL ALLEGATIONS**

*On August 2, 2007, Leandra Powell Martin, Dean of Math and Sciences, (Dean Martin) sent me an e-mail about “the student complaint<sup>10</sup> that I received.” I requested a summary of the complaint and was advised that the “complaint” was “from a summer student. Because of the nature of the complaint I would rather discuss it with you in person rather than by e-mail.”*

*I was not advised, by the Dean, whether the “complaint was being regarding as one alleging a violation of the College’s Nondiscrimination policy or “community complaint.”*

*Community complaints are handled by procedures set forth in the Collective Bargaining Agreement (CBA), Article 23.1 (EXHIBIT 5 (D)).*

**(B) MEETING OF SEPTEMBER 6, 2007<sup>11</sup>**

*On September 6, 2007<sup>12</sup>, I attended a meeting with Dean Lois Lund, Barbara Hanfling, Executive Director, AFT 6157; Debbie De La Rosa, Grievance Officer; and Dean Martin, for the purpose of discussing “an informal complaint made by a student attending June Sheldon’s Human Heredity class offered during the 2007 summer session.” (Emphasis added). A copy of Dean Martin’s e-mail and my response is attached as EXHIBIT 7.*

*As noted above, no one provided a statement or notice about Which “complaint” policy was applicable in this case (nondiscrimination or community complaint).*

*No one at the meeting stated that he/she was acting in the capacity of the designated “District” or “Campus” officer*

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<sup>10</sup> Through out the handling of this matter the document which was presented to Dean Martin has been improperly referred to as a “complaint.” A review of the document itself (Exhibit 7 (A) shows that it does not satisfy the requirements of Section 59311. Also see, Section 89328(a) which requires that unlawful discrimination complaints be filed in “a form prescribed by the Chancellor.”

<sup>12</sup> The Fall 2007 Semester started on September 4, 2007.

*as the terms are described in the College's nondiscrimination procedure.*

*The "student" who filed the document was not present at the meeting. In fact, this student, to the best of my knowledge did not actively participate in efforts to resolve her "complaint. To this date, (A) I have never received a written complaint from the student; (B) .I have not been asked to participate in a meeting with the student; and (C) I have not been presented with a proposal for resolution of the "complaint from the student..*

*A copy of the unsigned "complaint" <sup>13</sup> which was presented to me at the meeting is attached as EXHIBIT 8 (A)...*

*A written summary of the verbal response I made to the allegations at the meeting is attached as EXHIBIT 8-(B).*

*At the end of the meeting, I was left with the impression that there would be an effort to resolve the allegations in a manner consistent with College's "informal resolution" procedures.*

*A summary of the meeting, prepared by Deborah De La Rosa, Grievance Officer, is attached as EXHIBIT 9. In her E-Mail summary, Ms. De La Rosa states, among other matters, that "it is important that this initial meeting and a follow-up meeting take place over the next month so that this complaint (sic.) and process does not drag on." (EXHIBIT 9)*

**(C) NO EFFORT TO RESOLVE**

*After the September 6, 2007 meeting, I was never asked to participate in a mediation or settlement conference with the student in an effort to resolve the "complaint."*

*I never received a settlement proposal from the student who filed the charges, the Campus Officer or District Officer, or my Dean.*

*I was never interviewed by an investigator or advised that an Investigation of the allegations was being conducted.*

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<sup>13</sup> The date of the "complaint", July 25, 2007", was written onto the document by Dean Martin.

*I was never asked or given the opportunity to review and/or submit a response to the “investigation” conducted by the Dean.*

*In fact, I was not presented with a copy of the “investigation report” until January 28, 2008.*

*After its receipt, I prepared a response to the allegations and findings presented by the Dean in her “investigation report”. A copy of my response is attached as EXHIBIT 10.*

**(d) DIVERSITY WORKSHOP (OCTOBER 18, 2007)**

*Immediately, after the meeting of September 6, 2007, I searched for a course on “diversity”.*

*I was aware that instruction in this area would be both an enriching and professionally valuable experience.*

*I was not aware of such a class offered at Evergreen College during the Fall 2007 Semester.*

*On September 20, 2007, I located a class which was scheduled by Dr. Marion Winter, Director of Diversity, De Anza College, for October 19, 2007. The class title was “Teaching to A Culturally Diverse Student Population.”*

*I attended the class and notified Dean Martin of this fact. I also had my union representative send Dean Martin an “E-Mail” on October 22, 2007. (EXHIBIT 11)*

*Dean Martin did not acknowledge receipt of the information on my attendance at the diversity class.<sup>14</sup>*

**(e) OFFER OF APPOINTMENT (SPRING 2008)**

*On October 4, 2007, I sent Dean Martin an “E-Mail” regarding my teaching for the spring 2007 semester. I followed this “e-mail” up with similar inquiry from my union representative on October 17, 2007 (EXHIBIT 12))*

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<sup>14</sup> It should be noted that the Dean did not advise me or my Union representative that the focus of the “complaint” and her “investigation” was academic “misinformation” and that my completion of the diversity class was not relevant.

*We did not receive a response from Dean Martin.*

*On October 19, 2007, Dean Martin offered me a contract for the spring 2007 semester. (EXHIBIT 13(A))*

*The offer from Dean Martin was not, in any manner, made contingent upon the completion and outcome of her “investigation” of the student “complaint.”*

*The offer was made well after the expiration of time provided for the resolution of informal complaints under the College’s nondiscrimination procedures. That is, thirty (30) calendar days after July 25, 2007.*

*I returned my letter accepting the offer on October 22, 2007 (EXHIBIT 13(B))*

*I relied on the offer and, upon my acceptance of it, made financial and professional plans for the spring 2008 semester.*

**(f) INQUIRY REGARDING STATUS OF “COMPLAINT”**

*On December 18, 2007, Barbara Handling, my union representative, sent Dean Martin an E-mail regarding (1) my appointment to the spring 2008 semester; (2) the diversity workshop which I attended on October 19, 2007; and the status of the “complaint” of discrimination. (Exhibit 14).*

*Ms. Handling properly noted that more “than 90 days<sup>15</sup> have passed since our initial meeting and there has been no movement from the student toward anything formal. We need to find out what the status of the complaint is at this time and why.”*

*On December 19, 2007, Dean Martin responded by stating that “the matter is now being handled by the HR department. A letter was mailed via Federal Express to June Sheldon possibly yesterday.”(EXHIBIT 14).*

**(g) LETTER FROM VICE-CHANCELLOR MORRIS**

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<sup>15</sup> In accordance with the “Informal Process” established by Evergreen the parties were required to resolve this informal allegation within **thirty (30) calendar days** from the date it was received, July 25, 2007.



*I received the letter from Vice-Chancellor Morris (EXHIBIT 3) at 5:30 P.M. on December 19, 2007.*

4. AT ANY TIME DURING THE INFORMAL PROCESS THE COMPLAINANT MAY INITIATE A FORMAL COMPLAINT. SELECTING AN INFORMAL RESOLUTION DOES NOT EXTEND THE TIME LIMITATION FOR FILING A FORMAL COMPLAINT. EFFORTS AT INFORMAL RESOLUTION MAY CONTINUE AFTER THE FILING OF A FORMAL WRITTEN COMPLAINT. AFTER A FORMAL COMPLAINT IS FILED, HOWEVER, 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 FORMAL 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. (EMPHASIS ADDED)

I was never presented with a written complaint of discrimination as that term is defined within the College's policies.

*There is no record of the student who submitted the anonymous allegations filing a complaint with the College.*

*Under the procedures following a "formal complaint", I would have been entitled to review, not only the complaint, but each of the following items,*

- A. *A formal investigation of the complaint;*
- B. *A review of the results of the investigation by the College's "determination panel";*
- C. *A summary of the investigation report;*
- D. *A written notice setting forth:*
  - (1) *the findings of the Determination Panel as to whether there is probable cause to believe that harassment or discrimination occurred with respect to each allegation in the complaint;*
  - (2) *a description of actions taken, if any, to remedy any discrimination or harassment that occurred and to prevent similar problems from occurring in the future;*
  - (3) *the proposed resolution of the complaint;*
  - (4) *my right to file with the responsible officer a*

*written response to the findings of the  
Determination Panel for its review.*

*None of the procedural safeguards established by the  
College's procedures were offered to me since a "formal  
complaint" was not filed.*

5. THE CAMPUS OR DISTRICT OFFICER SHALL KEEP A WRITTEN LOG OF DISCUSSIONS AND A RECORD OF THE RESOLUTION. THIS INFORMATION SHALL BECOME PART OF THE OFFICIAL INVESTIGATION FILE IF THE COMPLAINANT INITIATES A FORMAL COMPLAINT.

*To the best of my personal knowledge and an investigation,  
as defined under Section 59334, was not conducted in this  
case.*

6. ONCE A COMPLAINT IS PUT IN WRITING, USING THE DISTRICT'S FORMAL COMPLAINT FORM AND SIGNED BY THE COMPLAINANT, THE COMPLAINT IS CONSIDERED TO BE FORMAL AND THE FORMAL COMPLAINT PROCEDURES SHALL BE FOLLOWED. (EMPHASIS ADDED)

*The anonymous allegations, presented to me on September 6,  
2007, did not comply with the requirements of section was not  
put "in writing" as that term is used in the Evergreen  
procedures and sections 59311(b), 59328, 59334, and 59336.*

*I was not informed that the College considered the allegation  
presented to me on September 6, 2007 as a "community complaint."  
and not one of discrimination.*

#### **B. COMMUNITY COMPLAINT" PROCEDURES NOT FOLLOWED**

The process for handling "community complaints" is found in Article 23.1 of the Collective Bargaining Agreement (EXHIBIT 5 (D))

Under the procedures any student complaint about a "FACULTY MEMBER SHALL BE PRESENTED TO THE FACULTYMEMBER BY THE ADMINISTRATOR RECEIVING THE COMPLAINT AS SOON AS POSSIBLE BUT NO LATER THAN TEN (10) DISTRICT INSTRUCTIONAL DAYS..." (Section 23.1). Here, the Dean presented me with the "complaint", filed by an "intersession student" on September 6, 2007.

The "community complaint" continues, as follows:

THE IMMEDIATE ADMINISTRATOR AND THE FACULTY MEMBER SHALL MEET TO REVIEW THE COMPLAINT. AT THE REQUEST OF THE FACULTY MEMBER, A FACULTY ASSOCIATION OFFICER OR MEMBER MAY ACCOMPANY THE FACULTY

MEMBER TO THE MEETING. THE IMMEDIATE ADMINISTRATOR SHALL ALSO MEET WITH THE COMPLAINANT TO CLARIFY THE ISSUE. IF DEEMED NECESSARY BY THE ADMINISTRATOR, A MEETING SHALL BE SCHEDULED WITH BOTH THE FACULTY MEMBER AND THE COMPLAINANT IN AN EFFORT TO RESOLVE THE COMPLAINT. THE FACULTY MEMBER SHALL ATTEND ANY SUCH MEETINGS CALLED BY THE ADMINISTRATOR.

A meeting was held, as described above, on September 6 2007.

I was not informed if the Dean met with the student “complainant”.

I was not asked to participate in a meeting with the student who filed the complaint.

I am not aware of any effort undertaken by the Dean to settle the complaint.

IF THE MATTER IS NOT RESOLVED AT THE MEETING TO THE SATISFACTION OF THE COMPLAINANT THE COMPLAINT SHALL BE PUT IN WRITING TO THE FACULTY MEMBER, WITH A COPY TO THE FACULTY MEMBER’S IMMEDIATE ADMINISTRATOR.

I never received a written complaint which was filed directly with me by the student complainant.

IF THE FACULTY MEMBER BELIEVES THE COMPLAINT IS FALSE AND/OR BASED ON HEARSAY, AN INQUIRY MAY BE INITIATED TO DETERMINE THE VALIDITY OF SUCH COMPLAINT. IF NO WRITTEN COMPLAINT IS RECEIVED THE MATTER SHALL BE DROPPED.

As noted above, I never received a complaint directly from the student.

I did provide the Dean with both a verbal response to the complaint (EXHIBIT 8 (B)) and a written response (EXHIBIT 8 (C)).

I never received a response from the Dean.

The Dean did not inform me that she was conducting an inquiry” or “investigation.”

Throughout, I believed that the Student “complaint” presented to me on September 6, 2008, was being handled in accordance with the College’s nondiscrimination complaint procedures.

COMPLAINTS, WHICH ARE WITHDRAWN, SHOWN TO BE FALSE, OR NOT SUSTAINED, SHALL NOT BE PLACED IN THE FACULTY MEMBER'S PERSONNEL FILE AND SHALL NOT BE UTILIZED IN ANY EVALUATION OR DISCIPLINARY ACTION AGAINST THE FACULTY MEMBER. VERIFIED COMPLAINTS MAY BE INCLUDED IN THE TRC EVALUATION DOCUMENTS.

The document which was presented to me on September 6, 2007, was not signed and there is no indication that its author intended it to be regarded as a community complaint.

I was never presented with a complaint from a student.

Article 6.7 of the Collective Bargaining Agreement (EXHIBIT 5 (B)) States that:

Anonymous material shall not become part of a faculty member's employment record without the written consent of the faculty member. Material is anonymous if the name of the source of the material is not disclosed to the faculty member.

I have not given written consent for the placement of the document Which is referred to as a "complaint" into my employment record. It is true, that the Dean and others have referred to an individual as the source of the document, however, I have not presented with any direct evidence that that person is, in fact, the document's author.

The person who drafted the "complaint" has not met with me nor has she filed a written complaint directly with me.

When I reviewed my personnel file on February 11, 2008, the "complaint" was not a part of it.

Placement of the document in my personnel file would have given me the opportunity to respond to it under the provisions of the Collective Bargaining Agreement (Article 6.4) "Derogatory or Offending Material)."

It is my contention that the "complaint" was withdrawn as a result of the "complainant's decision not to file it directly with me.

**C. ACADEMIC FREEDOM**

During the September 6, 2007 meeting my effort to raise the implications of the “complaint” on Academic Freedom was given “short shrift”. Now it appears that the Dean was more concerned about “academic misinformation” that she was about what was presented as a potential violation of the College’s Nondiscrimination policy.

The Collective Bargaining Agreement, Article Section 4.6.4, states that:

Instructors have the right to study and investigate, to interpret their findings, and express conclusions. Instructors may present views that are controversial and may evaluate opinion held by others, while representing the right of free expression.

Academic freedom does not include use of discriminatory, discourteous, offensive, abusive conduct or language toward students, supervisors, other employees, or the public while in the performance of District employment.

In the academic discipline of biology there exists a long-standing controversy regarding the question “Is sexual orientation determined at birth?” which is sometime referred to as the “nature vs. nurture” debate.

As a part of my “Human Heredity” class I provide time for students to engage in classroom discussion with me and each other over this and many other current issues. The course textbook provides access information to a number of databases which takes our discussions well beyond the “four corners” of the textbook.

It is my goal, during such discussion, to challenge and stimulate students to conduct and present his/her own research into Issues presented. I would have welcomed those of the student who filed the charges if she presented them to me and the class.

No evidence has been presented to me that the allegations made by the student constitute unlawful discrimination or such that a reasonable person would have found the alleged statements “offensive” or “abusive.”

The “investigation report” of December 6, 2007 (EXHIBIT 10) makes no such finding.

At the meeting of September 6, 2007, I tried, without success, to discuss my investigations into the “nature vs. nurture” controversy and the bases for the opinions expressed during the class.

My efforts to do so were dismissed by the Dean “out of hand.”

Attached as *EXHIBIT 17(A)-(F)* is a collection of articles on the “born gay debate” from [www.borngayprocon.org](http://www.borngayprocon.org)

I have also attached a selection of the more than 300 hundred research articles written by or cited to the research of Gunther Dorner, M.D., Te person whose work are referred to in my Summer Session class.  
(EXHIBIT 18)

The Dean used a single, anonymous, student allegation as a basis to censor my rights of academic freedom, and branded as a person who is guilty of “academic misinformation.”

This is wrong.

Attached as Exhibit 16 is a letter from the Foundation for Individual Rights in Education (FIRE) which was sent to each of the College’s Trustees.

FIRE presents a strong, supporting argument to my concerns about the profound negative impact of the present action upon my rights and the rights of all faculty members.

**D. MY SENIORITY REHIRE RIGHTS (“SRP”) WERE IMPROPERLY WITHDRAWN**

Seniority Rehire Rights (“SRP”) status provides a qualified adjunct faculty member with seniority rehire preference right over other less senior adjunct faculty within the division.” (CBA, Section 9.12.1) (EXHIBIT 5 (C))

After four (4) years of teaching at Evergreen, I earned my status of one of the most senior adjunct faculty members in Math Sciences.

On October 19, 2007 I received an offer of an appointment from Dean Martin for the Spring Semester 2008. I promptly accepted the offer, In writing, on October 22, 2007. A copy of the offer and acceptance is attached as *EXHIBIT 13 (A)-(B)*.

CBA, Section 9.12.5 states:

Once seniority rehire preference has been granted, ongoing evaluation of performance shall occur every six (6) semesters or more often if warranted. *Re-employment preference will be withdrawn if an appraisal of the adjunct faculty member’s*

*performance is “needs to improve” or if an investigation of **student complaints** or surveys substantiates performance problems.* (Emphasis added).

In her letter of December 18, 2007 Vice Chancellor Morris Incorrectly states:

As you are also aware, pursuant to Article 9.12.5 of the Collective Bargaining Agreement the District is entitled to remove you from the adjunct seniority rehire preference list “SRP” on the basis of **a student complaint**. Please be advised that the District has exercised its rights, and you are removed from the SRP. (Emphasis added).

I conducted a review of my official personnel file on February 11, 2008.<sup>16</sup>

My teaching performance has not been evaluated as “needs to improve.”

I have not been provided with notice of student or peer surveys which raised, documented, or “substantiated performance problems.”

The operative language in CBA, Section 9.12.5 is the word “*complaints*”, In the plural, and not “*complaint*” in the singular as asserted by the Vice Chancellor.

Not a single “student complaint” is contained in my official personnel.<sup>17</sup>

As noted in Section A and B, above, the anonymous document dated July 25, 2007, do not satisfy the requirements of a complaint as that term is defined in the local and system wide “nondiscrimination policies” and the “community complaint” procedures.

#### **E. OFFICIAL PERSONNEL FILE**

Education Code, Section 87031 provides, in part, that every employee “has the right to inspect personnel records pursuant to Section 1198.5 of the Labor Code.” (Exhibit 5 (B))

In addition to the “right to inspect personnel records”, Section 87031 Also provides that “information of a derogatory nature shall not be entered into an employee’s personnel records unless and until the

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<sup>16</sup> Please refer to the discussion under Section C “Personnel File”, below.

<sup>17</sup> As previously noted, the term “complaint” is defined in **Section 59311**

employee is given notice and an opportunity to review and comment on that information.”

A copy of Education Code, Section 87031, Labor Code Section 1198.5, and an article, from the California Department of Industrial Relations, entitled *Personnel Files and Records*, and are attached to this letter as *EXHIBITS 15 (A)-13(C)*.

CBA, Article 6 (“PERSONNEL FILES”) provides that personnel “*files*” for adjunct faculty members of Evergreen Valley College “shall be located at the Office of Academic Services.” (Section 6.1.2).

**1. DEROGATORY OR OFFENSIVE MATERIAL**

In addition to the “inspection rights” provided by Education Code, Section 87031, CBA, Section 6.4.1 (DEROGATORY OR OFFENSIVE MATERIAL) provides that,

Information of a derogatory nature, except material mentioned in Section 6.2 above, shall not be entered or filed in the faculty member’s Personnel file unless and until the member is given written notice and an opportunity to review and comment thereon. A faculty member shall have the right to enter and have attached to any such derogatory statement, the faculty member’s own comments. Such review shall take place during normal business hours, and the faculty member shall be released from duty for this purpose without salary reduction. (*Emphasis added*)

CBA, Section 6.4.2. further provides that,

If a faculty member believes that any employment record or any portion thereof is not accurate, relevant, timely or complete, the member may request correction of the record or deletion of the offending portion, or both. Such a request shall be in writing and shall include a statement of the corrections and deletions that the faculty member believes are necessary and the reasons therefore. The request shall; be addressed the Chancellor or designee.

CBA, Section 6.4.3 continues,

Within ten (10) days of the receipt of a request to remove offending material, the Chancellor or designee shall either agree top, or deny the appeal. If the request is denied, the Chancellor or designee shall state the reasons for the denial in writing. Both the request and the denial shall become a part of the faculty member’s



personnel file. If the request is approved, the offending material shall be removed from the file.

As noted, I have never received a notice of “derogatory” information being placed into my files.

However, the documents in my file on February 11, 2008 included (A) information on the Diversity Workshop; (B) letters of commendation for students who attended by classes in 2005 and 2007; and, (C) student surveys for classes have taught over the past several years. (EXHIBIT 2)

I believe that information regarding the “complaint” and the “investigation” as well as the December 18, 2007 letter from Vice-Chancellor Morris is being kept in “desk file” for future use.

I am not aware of any College policy which authorizes keeping “complaint” letters, “investigation” reports, or correspondence resulting in an adverse employment action in a file other than the official personnel file.

Here, the College is using this technique as a shield to defend against my inquiry and response to the documents and to enable it, as it does today, to deny the existence of the documents.

This practice is wrong and goes against the clear intent of the CBA and the Education Code.

**E. NAME CLEARING HEARING**

Education Code, Section 87665 provides that,

The governing board may terminate the employment of a temporary employee at its discretion at the end of a day or week, whichever is appropriate. The decision to terminate the employment is not subject to judicial review except as to the time of termination.

Reference to Section 87665 creates an impression that I do not have a right to have the College’s decision reviewed.

I do not agree.

The basis for my removal from the adjunct seniority rehire preference list, the recession of the offer of reappointment to the spring 2008 semester, and the invocation of Education Code, Section 87665,

was “a student complaint regarding statements you made your Human Heredity regarding homosexuality” and an “investigation” which sustained “the complaint.” (*EXHIBIT 3(A)*).

This action was based upon the Dean’s “investigative report” of December 6, 2007 (*EXHIBIT 10*) which states, without equivocation, that:

based on my investigation i conclude that june sheldon was teaching misinformation as science in a science course. i feel that these statements were grivous enough to warrant withdrawing her srp status and spring 08 assignment.

The statements made in Vice Chancellor Morris’ letter and the Dean’s “investigative report” are false, disparte my good need, and stigmatize me in my profession of choice.

In “settlement” presented to me by my Union I have been asked to agree not to apply for employment with the District as if the basis for my “separation” was disciplinary.

This “student complaint”, as discussed below, was not filed or investigated in accordance with the nondiscrimination policies or community complaint procedures of the College.

The “complaint”, the Dean’s “investigation”, and Vice-Chancellor Morris’ letter is unsupported by the facts and based upon hearsay. There was no Independent investigation of the charges made by the student in this case.

The student’s allegations have been handled in such a manner that I have been denied an opportunity to defend myself.

None of the information reviewed in this letter to you was marked, by any College official, as “personal and confidential.” The only privacy concern expressed, by anyone so far, the protection of the student’s identity.

Vice-Chancellor Morris’ letter is not identified as “personal and confidential” nor is there any instruction to regard it as such. When I tried to have my presentation for today scheduled for a closed session I was advised that I could not do so.

Since the “complaint” and “investigation” have not been placed into my personnel file, I have even been denied the opportunity to file a response under the provisions of respond under the provisions of Education Code, Section 87031 and CBA, Article 6 (“PERSONNEL FILES”).

Without regard to this fact, my reputation and good name has been disparaged. Prospective employers are more likely than not to learn of or see the stigmatizing allegations. It will be more difficult for me to find employment in an academic setting.

I did nothing wrong yet I am being treated like a person who has violated College rules or regulations.

Therefore, I believe that, at the very least, I was and am entitled to a “name-clearing hearing” **before** the college takes action to take the actions recommended in Vice-Chancellor’s letter of December 18, 2007.

The newest letter from **Anita** Morris dated February 7, 2008, does not refer to “complaints” or “charges” and asserts that none have been lodged against me. (Exhibit 3(B)). As you can see from the material presented, this is not true.

The College received, by “fax”, a letter from FIRE (Foundation for Individual Rights in Education) on February 6, 2008. Copies of the letter, which is attached as Exhibit 16, were sent to each of you.

Vice-Chancellor Morris’ letter followed.

I am not aware of any effort action or effort on the part of the College to remove the “complaint”, “investigation”, and previous correspondence from Vice Chancellor Morris from my employment records.

My SRP has not been restored.

I believe that I am entitled to the appointment which was offered to me on October 19, 2007 and I accepted on October 22, 2007.

I do not believe that there is a basis for the removal of my SRP or the termination of my appointment.

I request the remedies presented by FIRE and by me in my cover letter.

I intend to file a claim for money damages for the loss of income and benefits as well as a claim of age discrimination.

Submitted,

**DATED:** \_\_\_\_\_

**JUNE SHELDON**