

NONDISCRIMINATION

- A. Education Programs: The District shall provide access to its services, classes and programs without regard to, national origin, religion, age, sex or gender, gender identity, gender expression, race or ethnicity, color, medical condition, genetic information, ancestry, sexual orientation, marital status, physical or mental disability, pregnancy, military or veteran status or because they are perceived to have one or more of the foregoing characteristics, or based on association with a person or group with one or more of these actual or perceived characteristics.

All courses, including noncredit classes, shall be conducted without regard to the gender of the student enrolled in the classes. As defined in the Penal Code, "gender" means sex, and includes a person's gender identity and gender-related appearance and behavior whether or not stereotypically associated with the person's assigned sex at birth.

The District shall not prohibit any student from enrolling in any class or course on the basis of gender.

Academic staff, including but not limited to counselors, instructors and administrators shall not offer program guidance to students which differs on the basis of gender.

Insofar as practicable, the District shall offer opportunities for participation in athletics equally to male and female students.

- B. Employment: The District shall provide equal employment opportunities to all applicants and employees regardless of national origin, religion, age, sex or gender, gender identity, gender expression, race or ethnicity, color, medical condition, genetic information, ancestry, sexual orientation, marital status, physical or mental disability, pregnancy, military or veteran status or because they are perceived to have one or more of the foregoing characteristics, or based on association with a person or group with one or more of these actual or perceived characteristics. **The District shall not discriminate against a person in hiring, termination, or any term or condition of employment or otherwise penalize a person based upon the person's use of cannabis off the job and away from the workplace unless permitted under Government Code Section 12954.**

All employment decisions, including but not limited to hiring, retention, assignment, transfer, evaluation, dismissal, compensation, and advancement for all position classifications shall be based on job-related criteria as well as be responsive to the District's needs.

The District shall from time to time as necessary provide professional and staff development activities and training to promote understanding of diversity.

- C. Volunteers, Unpaid Interns and Work Experience Programs: It is unlawful to discriminate against a person who volunteers, serves in an unpaid internship or participates in work experience program. This includes the selection, termination, training, or other terms and treatment of that person on the basis of their national origin, religion, age, sex or gender, gender identity, gender expression, race or ethnicity, color, medical condition, genetic information, ancestry, sexual orientation, marital status, physical or mental disability, pregnancy, military or veteran status or because he/she/they is perceived to have one or more of the foregoing characteristics, or based on association with a person or group with one or more of these actual or perceived characteristics.

Reference: Education Code Sections **66250 et seq., 200 et seq., 72010 et seq., 87100 et seq.**; Title 5 Sections 53000 et seq.; Government Code Sections 11135 et seq. and 12940 et seq.; Title 2 Sections 10500 et seq.; Labor Code Section 1197.5; **Penal Code Sections 422.55 et seq.; Title 5 Sections 59300 et seq.**

Adopted: May 12, 2009

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<b>BP/AP APPROVAL PROCESS</b>		
<b>Author</b>	<b>30-Day</b>	<b>Board</b>
Bratsch; Human Resources	9/22/23	n/a

EQUAL EMPLOYMENT OPPORTUNITY ("EEO")

Sequoias Community College District (District) has adopted an Equal Employment Opportunity Plan (EEO Plan). This document is located on the District's Human Resources website.

## A. District Equal Employment Opportunity Plan:

The EEO Plan is a district-wide, written document that implements the District's EEO program, including the definitions contained in Title 5 Section 53001, which ~~addresses the following~~ **and must**:

1. **Be developed in collaboration with the District's Equal Employment Opportunity Advisory Committee ("EEO Committee");**
2. **Be reviewed and adopted at a regular meeting of the governing board where it is agendized as a separate action item and not part of the consent agenda;**
3. **Cover a period of three years, after which a new or revised plan shall be adopted; and**
4. **Be submitted to the California Community Colleges Chancellor's Office at least 90 days prior to its adoption. Comments received from the California Community Colleges Chancellor's Office on the proposed plan must be presented to the governing board prior to adoption.**

**The EEO Plan must include all of the following:**

1. **Specific pre-hiring, hiring, and post-hiring EEO strategies the District intends to implement each year over the life of the plan;**
2. **A schedule identifying the timetables for implementation of the identified EEO strategies;**
3. **Identification of the District EEO Officer with delegated responsibility and authority for implementing the EEO Plan and assuring compliance with Title 5 regulations;**
4. ~~Submission of the EEO Plan and subsequent revisions to the state Chancellor's Office for review and approval as required.~~
5. ~~The designation of the Dean, Human Resources and the Equal Employment Opportunity Advisory Operational Work Group as those who have been delegated responsibility and authority for implementing the EEO Plan and assuring compliance with the requirements of this Procedure;~~
6. The procedure for filing complaints and the person (Dean, Human Resources) with whom such complaints are to be filed;
7. A process for notifying all District employees of the provisions of the EEO Plan and the policy statement required;
8. A process for ensuring that District employees **individuals directly** who ~~are to participate~~ **participating** ~~on~~ **in the** screening or selection **process** ~~committees shall receive, prior to their participation, training on the~~

- requirements of the applicable Title 5 regulations and of state and federal nondiscrimination laws, the educational benefits of workplace diversity, the elimination of bias in hiring decisions, and best practices in serving on a screening or selection committee.
9. A process for providing annual written notice to appropriate community-based and professional organizations concerning the District's EEO Plan and the need for assistance from such organizations in identifying qualified, **diverse pools of** applicants for openings within the District;
  10. A process for gathering information and periodic, longitudinal analysis of the District's employees and applicants, broken down by number of persons from "monitored groups", as defined by Title 5 Section 53001(i), ~~who are employed in the District's work force and those who have applied for employment in each of the job categories listed below.~~ **in each job category to determine whether additional diversification measures are required and to implement and evaluate the effectiveness of those measures. The District shall conduct a data review as part of its plan renewal, and may conduct periodic data reviews more frequently; and**
  11. **A process for utilizing data available from reliable public and private sources to determine whether monitored groups are underrepresented within district job categories and strategies for addressing any underrepresentation.**
  - ~~12. To the extent data regarding potential job applicants is provided by the Chancellor of the California Community Colleges, an analysis of the degree to which monitored groups are underrepresented in comparison to their representation in the field or job category in numbers of persons from such groups whom the California Community Colleges Chancellor's Office determines to be available and qualified to perform the work required for each such job category and whether or not the underrepresentation is significant;~~
  - ~~13. The steps the District will take to promote diversity in its work force; and,~~
  - ~~14. Methods for addressing any discrimination that is detected in the District's hiring practices.~~

The District's EEO Plan is a public record.

The District shall make a continuous good faith effort to comply with the requirements of its EEO Plan, including the following Plan components:

B. Annual Evaluation:

- ~~1. The District shall annually collect the demographic data of its employees and applicants for employment in order to evaluate progress in implementing the EEO Plan and to provide data needed for required analyses.~~ **The District shall collect and continually monitor its employee and applicant demographic data to evaluate the implementation of the EEO Plan and to conduct the analyses required by Title 5. The District shall report its employment-related data to the California Community Colleges Chancellor's Office annually in a manner prescribed by the Chancellor. To facilitate analysis, all applicants and employees must be assigned a job category.**

2. ~~An annual report to the Chancellor's Office of the California Community Colleges of this demographic data. The report shall identify each employee as belonging to one of the following seven job categories:
 
  - a. ~~Executive/administrative/managerial~~
  - b. ~~Faculty and other instructional staff~~
  - c. ~~Professional non-faculty~~
  - d. ~~Secretarial/clerical~~
  - e. ~~Technical and paraprofessional~~
  - f. ~~Skilled crafts~~
  - g. ~~Service and maintenance~~~~
3. **The District data collection will allow applicants and** ~~The opportunity for each employees~~ to identify his or her **their** gender **(including non-binary options)**, ethnicity **ethnic group identification** and, if applicable, disability **in a manner prescribed by the California Community Colleges Chancellor's Office consistent with state and federal law**. ~~This opportunity must allow for a person to designate multiple ethnic groups with which he or she identifies. However, the person may only be counted in one group for reporting purposes.~~
4. ~~Districts shall review the annually collected demographic data to determine if significant underrepresentation of a monitored group may be the result of non-job-related factors in the employment process. For the purposes of this subdivision, the phases of the employment process include but are not limited to recruitment, hiring, retention, and promotion. The information to be reviewed shall include, but need not be limited to:~~
  - a. ~~longitudinal analysis of data regarding job applicants to identify whether over multiple job searches, a monitored group is disproportionately failing to move from the initial applicant pool, to the qualified applicant pool; and analysis of data regarding potential job applicants, to the extent provided by the Chancellor of the California Community Colleges, which may indicate significant underrepresentation of a monitored group.~~

C. EEO Advisory Operational Work Group **Committee**:

1. The District has established an **EEO Advisory Operational Work Group** ("EEO Work Group") **Committee**.
2. This EEO Work Group **Committee** shall include a diverse membership whenever possible **and include members from District stakeholder groups, including but not limited to, students, faculty and classified staff**.
3. The EEO Work Group **Committee, as well as members of the District governing board**, shall receive training in all of the following: applicable Title 5 regulations and of state and federal nondiscrimination laws; the educational benefits of workforce diversity, the identification and elimination of bias in hiring decisions; and the role of the work group **EEO Committee** in carrying out **drafting and implementing** of the District's EEO Plan.

The responsibilities of the EEO ~~Work Group~~ **Committee** shall include but not be limited to the following:

1. Review and advise on recruitment efforts; job announcements, interview protocols, retention efforts and other aspects of the hiring, retention, and promotion processes that impact the District's ability to attract and retain a diverse faculty and staff;
2. Advise on implementing the District's obligation to hire faculty and administrators with a demonstrated sensitivity to, and understanding of, the diverse academic, socioeconomic, cultural, disability and ethnic backgrounds of community college students;
3. Promote communication with community groups and organizations for people with disabilities;
4. Promote hiring of faculty who have, themselves, graduated from a community college;
5. Develop communications among departments to foster understandings of the EEO Plan;
6. Advise the Superintendent/President regarding special training or staff development needs;
7. Review the EEO Plan and monitor its progress;
8. Recommend changes needed in the EEO Plan; and
9. Review and approve the annual written report to the Superintendent/President, the Board of Trustees, and the Chancellor's Office for the California Community Colleges.

#### Employment Procedures

##### D. Job Analysis and Validation:

The Dean, Human Resources shall assure that a proper job analysis is performed for every job filled by the District to determine and validate the knowledge, skills, abilities and characteristics an employee must possess to perform the job satisfactorily.

A statement of bona fide essential functions and minimum qualifications shall be developed for all positions.

##### E. Job Description:

Every job description shall provide a general statement of job duties and responsibilities.

Job specifications shall include functions and tasks; knowledge; skills; ability; and job related personal characteristics, including but not limited to sensitivity to and understanding of the diverse academic, socioeconomic, cultural, linguistic, disability, and ethnic backgrounds of community college students.

##### F. Recruitment:

Recruitment must be conducted actively within and outside of the District work force.

Open recruitment is mandated for all new full-time and part-time positions,

except under limited circumstances involving interim hires.

Recruitment must utilize outreach strategies designed to ensure that all qualified individuals, from all monitored groups, are provided the opportunity to seek employment with the District.

Recruitment for administrative and faculty positions (full and part-time) may include advertisement in appropriate professional journals, job registries and newspapers of general circulation; distribution of job announcements to the EEO Registry, K-12 districts, two and four year colleges, and graduate schools where appropriate candidates might be enrolled; recruitment at conferences, fairs, and professional meetings; notices to institutions and professional organizations that primarily serve members of monitored groups that are underrepresented in the District.

Recruitment for classified positions shall include notice to all District personnel; and advertising in area newspapers of general circulation.

- G. Applicant Pools: The application for employment shall afford each applicant an opportunity to identify himself or herself voluntarily as to gender, ethnicity and, if applicable, his or her disability. This information shall be maintained in confidence and shall be used only for research, validation, monitoring, evaluation of the effectiveness of the EEO Plan, or as authorized by law.

All initial applications shall be screened to determine which candidates satisfy job specifications set forth in the job announcement. The group of candidates who meet the job specifications shall constitute the "qualified applicant pool."

Once the qualified pool is formed, the pool must again be analyzed. If the Dean of Human Resources or designee finds that the composition of the qualified applicant pool may have been influenced by factors which are not job related, the District may immediately, and before the selection process continues, consult with legal counsel to determine what, if any, corrective action is required by law.

H. Screening and Selection:

Screening, selecting and interviewing candidates for all positions shall include thorough and fair procedures that are sensitive to issues of diversity. Procedures to be used must address or include that:

1. Hiring procedures will be provided to the state Chancellor's Office on request.
2. All tests conform to generally applicable legal standards for uniformity.
3. A reasonable number of candidates are identified for interview.
4. Screening and selection committees are developed that are representative of the District community and campus; include administrators, faculty and classified staff; include a diverse membership when possible; do not include applicants or persons who have written letters of recommendation.
5. Every screening and selection committee includes an individual trained to monitor conformance with EEO requirements. The EEO Officer

assures that the screening and selection process conforms to accepted principles and practices, including preparation of job related questions in advance; maintains records of screening checklists and rating scales, which shall be signed and kept on file; maintains notes for all interviews and record relevant factual reasons stating why a candidate was not hired or was not invited to interview; and monitors the hiring process for adverse impact.

6. Selection shall be based solely on the stated job criteria.
7. For faculty and administrative positions, candidates shall be required to demonstrate sensitivity to diversity in ways relevant to the specific position.

I. Underrepresentation of Monitored Groups:

If the District determines that a particular monitored group is significantly underrepresented with respect to one or more job categories, the District shall take the following additional steps:

1. Review its recruitment procedures;
2. Consult with counsel to determine whether there are other, additional measures that may be undertaken that are required and/or permitted by law;
3. Consider various other means of reducing the underrepresentation which do not involve taking monitored group status into account and implement any such techniques that are feasible;
4. If significant underrepresentation persists:
  - a. review each locally-established job qualification to determine if it is job related and consistent with business necessity;
  - b. discontinue the use of any non-job related local qualification;
  - c. continue using job-related local qualifications only if no alternative standard is reasonably available; and
  - d. consider the implementation of additional measures designed to promote diversity.

J. Delegation of Authority

1. The designation of a single person as the "EEO Officer" charged with overseeing the day-to-day implementation of the EEO Plan and programs.
2. Processes and responsibilities when the EEO Officer is named in a complaint or implicated by the allegations in a complaint.

K. Complaint Procedure

Any person may file a complaint alleging the District violated this policy and procedures. An individual should file a written complaint with the Dean, Human Resources. ~~The District shall immediately forward a copy of the complaint to the California Community Colleges Chancellor's Office, which may require that the District provide a written investigative report within ninety (90) days.~~ The District shall also process complaints that allege unlawful discrimination according to the procedures set forth in AP 3430 Prohibition of Harassment and AP 3435 Discrimination and Harassment Complaints and Investigations.

L. Job Announcements

All job announcements shall contain a statement in substantially the following form: The District is an equal opportunity employer. The policy of the District is to encourage applications from persons who are economically disadvantaged and individuals belonging to significantly underrepresented groups within the District's workforce, including ethnic and racial minorities, women, and persons with disabilities. No person shall be denied employment because of ethnicity or race, religious creed, color, sex or gender, gender identify, gender expression, age, marital status, physical disability, mental disability, sexual orientation, national origin, medical conditions, genetic information, veteran or military status, ancestry, or political or organizational affiliation.

**M. Dissemination and Revision of the EEO Plan**

All managers and supervisors shall be given copies of the EEO Plan as revised from time to time and any guidelines for implementing the EEO Plan. Copies of the EEO Plan shall be provided to the Academic Senate and the exclusive representatives of any units of employees.

Statements of nondiscrimination shall be posted at locations where applications for employment are distributed.

Such EEO Plans shall be reviewed at least every three years and, if necessary, revised and submitted to the state Chancellor's Office within 90 days of the effective date of the revision or amendment(s). If the Chancellor determines that a district's policies are not in compliance with 59300 et al., the Chancellor may require the District to modify its policies.

**N. Accountability and Corrective Action**

The District shall certify annually to the Chancellor of the California Community Colleges that they have timely:

1. Recorded, reviewed and reported the data required regarding qualified applicant pools;
2. Reviewed and updated, as needed, the Strategies Component of the district's EEO Plan; and
3. Investigated and appropriately responded to formal harassment or discrimination complaints filed pursuant to subchapter 5 (commencing with Section 59300) of chapter 10 of this division.

Reference: Educ. Code Sections 87100 et seq.; Title 5 Sections 53000 et seq. and Sections 59300 et seq.; ACCJC Accreditation Standard III.A.12; Government Code Sections 7400 et seq. and 12940 et seq.

Adopted: May 12, 2009

Revised: April 18, 2022

<b>BP/AP APPROVAL PROCESS</b>		
<b>Author</b>	<b>30-Day</b>	<b>Board</b>
Bratsch; Human Resources	9/22/23	n/a

**Prohibition of Sexual Harassment under Title IX**

**The District is committed to providing an academic and work environment free of unlawful sex harassment under Title IX. This procedure defines sexual harassment on campus.**

**This procedure and the related policy protects students, employees, in connection with all the academic, educational, extracurricular, athletic, and other programs of the District, whether those programs take place in the District's facilities, a District bus, or at a class or training program sponsored by the District at another location.**

**Definitions**

**Sexual Harassment under Title IX: Conduct that satisfies one or more of the following:**

- 1. A District employee conditions the provision of an aid, benefit, or service of the District on an individual's participation in unwelcome sexual conduct (*quid pro quo* harassment);**
- 2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the District's education program or activity;**
- 3. Sexual assault, including the following:**
  - a. Sex Offenses. Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.**
  - b. Rape (except Statutory Rape). The carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their temporary or permanent mental or physical incapacity. There is carnal knowledge if there is the slightest penetration of the genital or anal opening of the body of another person.**
  - c. Sexual Assault with an Object. To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their age or because of his/her/their temporary or permanent mental or physical incapacity. An "object" or**

"instrument" is anything the offender uses other than the offender's genitalia, e.g., a finger, bottle, handgun, stick.

- d. Fondling. The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their age or because of his/her/their temporary or permanent mental or physical incapacity.
- e. Sex Offenses, Non-Forcible Unlawful, Non-Forcible Sexual Intercourse.
  - i. Incest. Non-Forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
  - ii. Statutory Rape – Non-Forcible. Sexual intercourse with a person who is under the statutory age of consent. There is no force or coercion used in Statutory Rape; the act is not an attack.
- f. Dating violence. Violence against a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of a relationship will be determined based on a consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
- g. Domestic Violence. Violence committed:
  - i. By a current or former spouse or intimate partner of the victim;
  - ii. By a person with whom the victim shares a child in common;
  - iii. By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
  - iv. By a person similarly situated to a spouse of the victim under the domestic or family violence laws of California; or
  - v. By any other person against an adult or youth victim protected from that person's acts under the domestic or family violence laws of California.
- h. Stalking. Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his/her/their safety or the safety of others or suffer substantial emotional distress.

References: Title 5 Sections 59320 et seq.; Title VII of the Civil Rights Act of 1964, 42 U.S. Code Annotated Section 2000e; Title IX Education Amendments of 1972

Adopted:

<b>BP/AP APPROVAL PROCESS</b>		
<b>Author</b>	<b>30-Day</b>	<b>Board</b>
Bratsch; Human Resources	9/22/23	n/a

Responding to Harassment Based on Sex under Title IX

Introduction

The District encourages members of the District community to report sexual harassment. This procedure only applies to conduct defined as sexual harassment under Title IX and applicable federal regulations and that meets Title IX jurisdictional requirements. The District will respond to sexual harassment and sexual misconduct that falls outside that definition and outside the jurisdiction of the Title IX federal regulations using California law and applicable District policies and procedures. In implementing these procedures discussed below, the District will also provide supportive measures, training, and resources in compliance with California law, unless they are preempted by the Title IX regulations.

Title IX Coordinator

Questions concerning Title IX may be referred to the District Title IX Coordinator whose contact information is below.

The District's Title IX Coordinator is:

John Bratsch, Dean of Human Resources/Legal Affairs, and his contact information is:

915 South Mooney Blvd., Sequoia Room 5, Visalia, CA 93277

(559) 730-3830

johnbr@cos.edu

The Title IX Coordinator is required to respond to reports of sexual harassment or misconduct. The Title IX Coordinator will handle information received with the utmost discretion and will share information with others on a need-to-know basis. For example, the Title IX Coordinator may need to address public safety concerns on campus, comply with state and federal legal requirements, or share information to implement supportive measures.

A report of sexual harassment to the Title IX Coordinator does not necessarily lead to a full investigation, as discussed more fully below. However, the Title IX Coordinator will make an assessment to determine if there is a safety risk to the campus. If the Title IX Coordinator finds there is a continued risk, the Title IX Coordinator will file the formal complaint without the Complainant's consent or cooperation.

Title IX Harassment Complaints, Investigations, and Hearings

These Title IX sexual harassment procedures and the related policy protect students, employees, applicants for employment, and applicants for admission.

The investigation and adjudication of alleged sexual harassment under this

procedure is not an adversarial process between the Complainant, the Respondent, and the witnesses, but rather a process for the District to comply with its obligations under existing law. The Complainant does not have the burden to prove, nor does the Respondent have the burden to disprove, the underlying allegation or allegations of misconduct.

#### Jurisdictional Requirements – Application of Procedures

These procedures apply if the conduct meets the following three jurisdictional requirements:

- The conduct took place in the United States.
- The conduct took place in a District “education program or activity.” This includes locations, events, or circumstances over which the District exercised substantial control over both the Respondent and the context in which the harassment occurred, including on-campus and off-campus property and buildings the District owns or controls or student organizations officially recognized by the District own or control.
- The conduct meets the definition of Title IX “sexual harassment.”

#### Definitions

Advisor: Throughout the grievance process, both the Complainant and Respondent have a right to an Advisor of their choice. If a Party does not have an Advisor at the time of the hearing, the District must provide the Party an Advisor of the District’s choice, free of charge. The District may establish restrictions regarding the extent to which the Advisor may participate in the proceedings as long as the restrictions apply equally to both Parties.

Parties have the right to consult with an attorney, at his/her/their own expense, at any stage of the Complaint process if he/she/they wish to do so. An attorney may serve as an advisor.

Complainant: A Complainant is an individual who alleges he/she/they is the victim of conduct that could constitute sexual harassment.

Consent: Consent means affirmative, conscious, and voluntary agreement to engage in sexual activity. Both Parties must give affirmative consent to sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that he/she/they have the affirmative consent of the other or others to engage in the sexual activity. Lack of protest, lack of resistance, or silence does not indicate consent. Affirmative consent must be ongoing throughout a sexual activity and one can revoke his/her/their consent at any time. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, is not an indicator of consent.

The Respondent’s belief that the Complainant consented will not provide a valid defense unless the belief was actual and reasonable, based on the facts and circumstances the Respondent knew, or reasonably should have known, at the

time of the incident. A Respondent's belief is not a valid defense where:

- The Respondent's belief arose from the Respondent's own intoxication or recklessness;
- The Respondent did not take reasonable steps to ascertain whether the Complainant affirmatively consented; or
- The Respondent knew or a reasonable person should have known that the Complainant was unable to consent because the Complainant was incapacitated, in that the Complainant was:
  - asleep or unconscious;
  - unable to understand the fact, nature, or extent of the sexual activity due to the influence of drugs, alcohol, or medication; or
  - unable to communicate due to a mental or physical condition.

Decision-Maker(s): The person(s) who will oversee the live hearing and make a determination of responsibility. The District may have one Decision-Maker determine whether the Respondent is responsible, and another Decision-Maker determine the appropriate level of penalty for the conduct. The Decision-Maker(s) cannot be the Title IX Coordinator or the investigator.

Formal Complaint: A written complaint signed by the Complainant or Title IX Coordinator, alleging sexual harassment and requesting an investigation. If the Title IX Coordinator signs the formal complaint, he/she/they will not become a Party to the complaint.

Parties: As used in this procedure, this means the Complainant and Respondent.

Respondent: A Respondent is an individual reported to be the perpetrator of conduct that could constitute sexual harassment.

Sexual Harassment under Title IX: Conduct that satisfies one or more of the following:

- A District employee conditions the provision of an aid, benefit, or service of the District on an individual's participation in unwelcome sexual conduct (*quid pro quo* harassment);
- Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the District's education program or activity;
- Sexual assault, including the following:
  - Sex Offenses: Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.
  - Rape (except Statutory Rape): The carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their temporary or permanent mental or physical incapacity. There is carnal knowledge

- if there is the slightest penetration of the genital or anal opening of the body of another person.
- Sexual Assault with an Object: To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their age or because of his/her/their temporary or permanent mental or physical incapacity. An "object" or "instrument" is anything the offender uses other than the offender's genitalia, e.g., a finger, bottle, handgun, stick.
  - Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their age or because of his/her/their temporary or permanent mental or physical incapacity.
  - Sex Offenses, Non-Forcible Unlawful, Non-Forcible Sexual Intercourse:
    - Incest: Non-Forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
    - Statutory Rape – Non-Forcible: Sexual intercourse with a person who is under the statutory age of consent. There is no force or coercion used in Statutory Rape; the act is not an attack.
  - Dating violence: Violence against a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of a relationship will be determined based on a consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
  - Domestic Violence: Violence committed:
    - By a current or former spouse or intimate partner of the victim;
    - By a person with whom the victim shares a child in common;
    - By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
    - By a person similarly situated to a spouse of the victim under the domestic or family violence laws of California; or
    - By any other person against an adult or youth victim protected from that person's acts under the domestic or family violence laws of California.
  - Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his/her/their safety or the safety of others or suffer substantial emotional distress.

### Reporting Options

Any individual may report sexual harassment to the District's Title IX Coordinator.

The District strongly encourages prompt reporting of sexual harassment. Prompt

reporting allows for the collection and preservation of evidence, including physical evidence, digital media, and witness statements. A delay may limit the District's ability to effectively investigate and respond.

Because individuals may be deterred from reporting incidents of sexual harassment if alcohol, drugs, or other violations of District or campus rules were involved, the District will inform individuals that the primary concern is for student and employee safety and that use of alcohol or drugs never makes a Complainant at fault for sexual harassment. An individual who participates as a Complainant or witness in an investigation of sexual assault, domestic violence, dating violence, or stalking will not be subject to disciplinary sanctions for a violation of the District's student conduct policy at or near the time of the incident, unless the District determines that the violation was egregious, including, but not limited to, an action that places the health or safety of any other person at risk or involves plagiarism, cheating, or academic dishonesty.

Individuals have the opportunity to decide whether they want to pursue a formal Title IX complaint. Reporting sexual harassment to the Title IX Coordinator does not automatically initiate an investigation under these procedures. A report allows the District to provide a wide variety of support and resources to impacted individuals and to prevent the reoccurrence of the conduct. A Complainant or the Title IX Coordinator filing a formal complaint will initiate an investigation.

If there are parallel criminal and Title IX investigations, the District will cooperate with the external law enforcement agency and will coordinate to ensure that the Title IX process does not hinder legal process or proceedings.

The District will document reports of sexual harassment in compliance with the Clery Act, a federal law requiring data collection of crime within the campus geography. Under the Clery Act, the District does not document personal information; the District reports the type of conduct, and the time, date, and location. (Also see BP/AP 3540 Sexual and Other Assaults on Campus).

#### District Employees and Officials with Authority

District Officials with Authority are not confidential resources and are required to report allegations of sexual harassment to the Title IX Coordinator promptly. All other employees are encouraged to report allegations to the Title IX Coordinator but are not required to do so.

The District has designated all supervisors/managers as Officials with Authority.

Officials with Authority are required to report all relevant information they know about sexual harassment including the name of the Respondent, the Complainant, any other witnesses, and the date, time, and location of the alleged incident.

#### Intake and Processing of Report

#### Receipt of Report

After receiving a report of sexual harassment, the Title IX Officer will contact the Complainant and reporting party to explain rights under this policy and procedure and invite the Complainant to an in-person meeting. The Title IX Officer will discuss supportive measures with the Parties.

#### Timeframe for Reporting

To promote timely and effective review, the District strongly encourages individuals to report sexual harassment as soon possible because a delay in reporting may affect the ability to collect relevant evidence and may affect remedies the District can offer.

#### Supportive Measures

Supportive measures are non-disciplinary, non-punitive individualized services offered free of charge to the Complainant or the Respondent regardless of whether a formal complaint has been filed. The District will provide the Complainant and Respondent with written notice of options for, available assistance in, and how to request available supportive measures. The District will provide such measures to Complainant and Respondent as appropriate and as reasonably available to restore or preserve equal access to the District's education program or activities. These measures are designed to protect the safety of all Parties, protect the District's educational environment, or deter sexual harassment. The District will provide supportive measures on a confidential basis and will not disclose that the District is providing supportive measures except to those with a need to know to enable the District to provide the service. Supportive measures may include changes to academic, living, transportation, and working situation or protective measures such as counseling, extensions of deadlines, other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the Parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

When requested by a Complainant or otherwise determined to be appropriate, the District shall issue a no-contact directive prohibiting the Respondent from contacting the Complainant during the pendency of the investigation. The District shall not issue a mutual no-contact directive automatically, but instead shall consider the specific circumstances of each report of sexual harassment to determine whether a mutual no-contact directive is necessary or justifiable to protect a Party's safety or well-being, or to respond to interference with an investigation. If the District issues any no-contact directive, the District shall provide the Parties with an explanation of the terms of the directive, including the circumstances, if any, under which violation could be subject to disciplinary action. If the District issues a mutual no-contact directive, the District shall also provide the Parties with a written justification for the directive.

#### Sexual Assault and Domestic Violence Counselors

For further information about services provided by sexual assault and domestic violence counselors on campus, see AP 3540 Sexual and Other Assaults on

## Campus and in Campus Programs.

### Removal of Respondent Pending Final Determination

Upon receiving a report regarding sexual harassment, the Title IX Coordinator will make an immediate assessment concerning the health and safety of the Complainant and campus community as a whole. The District has the right to order emergency removal of a Respondent, or if the Respondent is an employee, place the employee on administrative leave.

### Emergency Removal

The District may remove a non-employee Respondent from the District's education program or activity on an emergency basis after it conducts an individualized safety and risk analysis and determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal.

The District may not use emergency removal to address a Respondent's threat of obstructing the sexual harassment investigation or destroying relevant evidence. Emergency removal is only available to address health or safety risks against individuals arising out of sexual harassment allegations, not to address other forms of misconduct that a Respondent might commit pending the processing of a complaint.

The District's Title IX Coordinator or designee will conduct the individualized safety and risk analysis.

If the Title IX Coordinator determines emergency removal is appropriate, he/she/they or designee will provide the person the District is removing from campus on an emergency basis with a notice and opportunity to attend a meeting and challenge the basis of his/her/their removal. The Title IX Coordinator or designee will determine whether the emergency removal from campus order is warranted after considering information provided by the Respondent challenging the emergency removal.

### Administrative Leave

The District may place a non-student employee Respondent on administrative leave during the pendency of a grievance process described in the formal complaint process below. The District will follow any relevant policies, procedures, collective bargaining agreements, or state law in placing an employee on administrative leave.

## Formal Complaint Grievance Process

### Notice to Parties

Upon receipt of a formal complaint, the Title IX Coordinator will provide the following notice in writing, to the Parties:

- Notice of the District's Title IX grievance process;
- Notice of the allegations of alleged sexual harassment with sufficient details known at the time and with sufficient time to prepare a response before any initial interview;
- Statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;
- Notice that the Parties may have Advisor of their choice, who may be, but is not required to be, an attorney;
- Notice that the Parties may inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including the evidence upon which the District does not intend to rely in reaching a determination regarding responsibility, and inculpatory or exculpatory evidence whether obtained from a Party or other source;
- Inform the Parties of any provision in the District's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process; and
- For student Parties, notice regarding appropriate counseling resources the District has developed and maintains.

If, in the course of an investigation, the District decides to investigate allegations about the Complainant or Respondent that are not included in the notice provided above, the Title IX Coordinator will provide notice in writing of the additional allegations to the Parties.

#### Dismissal of Formal Complaint

The District must investigate the allegations in a formal complaint. However, the District must dismiss the formal complaint and will not process the complaint under these procedures if any of the following three circumstances exist:

- If the conduct alleged in the formal complaint would not constitute Title IX sexual harassment as defined in this procedure;
- If the conduct alleged did not occur in the District's education program or activity;
- If the conduct alleged did not occur against a person in the United States.

The District has discretion to dismiss a formal complaint or any allegation under the following circumstances:

- If at any time during the investigation or hearing: a Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations;
- If the Respondent is no longer enrolled or employed by the District; or
- If there are specific circumstances that prevent the District from gathering evidence sufficient to reach a determination regarding responsibility as to the formal complaint or allegations.

If the District dismissed the formal complaint or any allegations, the Title IX Coordinator shall simultaneously provide the Parties with written notice of the dismissal and reason. The District will also notify the Parties of their right to appeal.

The District may commence proceedings under other policies and procedures after dismissing a formal complaint.

#### Consolidation of Formal Complaints

The District may, but is not required to, consolidate formal complaints as to allegations of sexual harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one Party against the other Party, where the allegations of sexual harassment arise out of the same facts or circumstances.

#### Equitable Treatment of the Parties

The District's determination of responsibility is a neutral, fact-finding process. The District will treat Complainants and Respondents equitably. The procedures will apply equally to both Parties. The District will not discipline a Respondent unless it determines the Respondent was responsible for sexual harassment at the conclusion of the grievance process.

#### Statement of Presumption of Non-Responsibility

The investigation is a neutral, fact-finding process. The District presumes all reports are in good faith. Further, the District presumes the Respondent is not responsible for the alleged conduct. The District makes its determination regarding responsibility at the conclusion of the grievance process.

#### Bias or Conflict of Interest

The District's Title IX Coordinator, investigator, Decision-Maker, or any person designated by the District to facilitate an informal resolution process, will not have potential or actual bias or conflict of interest in the investigatory, hearing, sanctioning, or appeal process or bias for or against Complainants or Respondents generally. Actual bias is an articulated prejudice in favor of or against one Party or position; it is not generalized concern about the personal or professional backgrounds, positions, beliefs, or interests of the Decision-Maker in the process. The District will ensure that the Title IX Coordinator, investigator, Decision-Maker, and facilitator receive training on:

- The definition of sexual harassment in this procedure;
- The scope of the District's education program or activity;
- How to conduct an investigation;
- The grievance process including conducting hearings, appeals, and informal resolution processes; and
- How to serve impartially, including avoiding: prejudgment of the facts at issue, conflicts of interest, and bias.

### Timeline for Completion

The District will undertake its grievance process promptly and as swiftly as possible. The District will complete the investigation and its determination regarding responsibility or the informal resolution process within 180 calendar days.

When appropriate, the Title IX Coordinator may determine that good cause exists to extend the 180 calendar day period to conduct a fair and complete investigation, to accommodate an investigation by law enforcement, to accommodate the unavailability of witnesses or delays by the Parties, to account for District breaks or vacations, or due to the complexity of the investigation. The District will provide notice of this extension to the Complainant and Respondent in writing and include the reason for the delay and anticipated timing of completion.

A Party may request an extension from the Title IX Coordinator in writing by explaining the reason for the delay and the length of the continuance requested. The Title IX Coordinator will notify the Parties and document the grant or denial of a request for extension or delay as part of the case recordkeeping. The District shall grant a student Party's reasonable request for an extension of a deadline related to a Complaint during periods of examinations or school closures.

### Role of Advisor

The role of the Advisor is to provide support and assistance in understanding and navigating the investigation process.

The Advisor may not testify in or obstruct an interview or disrupt the process. The Title IX Coordinator has the right to determine what constitutes appropriate behavior of an Advisor and take reasonable steps to ensure compliance with this procedure.

A Party does not have a right to self-representation at the hearing; an Advisor must conduct any cross-examination. The District must provide an Advisor of its choice, free of charge to any Party without an Advisor in order to conduct cross-examination. If an Advisor fails to appear at the hearing, the District will provide an Advisor to appear on behalf of the non-appearing Advisor. To limit the number of individuals with confidential information about the issues, each Party may identify one Advisor.

### Confidentiality Agreements

To protect the privacy of those involved, the Parties and Advisors are required to sign a confidentiality agreement prior to attending an interview or otherwise participating in the District's grievance process. The confidentiality agreement restricts dissemination of any of the evidence subject to inspection and review or use of this evidence for any purpose unrelated to the Title IX grievance process. The confidentiality agreement will not restrict the ability of either Party to discuss the allegations under investigation.

### Use of Privileged Information

The District's formal complaint procedure does not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally-recognized privilege (e.g., attorney-client privilege, doctor-patient privilege, spousal privilege, etc.), unless the person holding the privilege provides voluntary, written consent to waive the privilege.

#### Student Complainant Requests for Confidentiality

If a student Complainant requests confidentiality when reporting sexual harassment, which could preclude a meaningful investigation or potential discipline of the Respondent, if found responsible, or that no investigation or disciplinary action be pursued to address alleged sexual harassment, the District shall take the request seriously, while at the same time considering its responsibility to provide a safe and nondiscriminatory environment for all students, including for the Complainant. The District shall normally grant the request when possible. In determining whether to disclose a Complainant's identity or proceed to an investigation over the objection of the Complainant, the District may consider whether any of the following apply:

- There are multiple or prior reports of sexual misconduct against the Respondent;
- The Respondent reportedly used a weapon, physical restraints, or engaged in battery;
- The Respondent is a faculty or staff member with oversight of students;
- There is a power imbalance between the Complainant and Respondent;
- The Complainant believes that the Complainant will be less safe if the Complainant's name is disclosed or an investigation is conducted; and
- The District is able to conduct a thorough investigation and obtain relevant evidence in the absence of the Complainant's cooperation.

If the District determines that it can honor the student-Complainant's request for confidentiality, it shall still take reasonable steps to respond to the Complaint, consistent with the request, to limit the effects of the alleged sexual harassment and prevent its recurrence without initiating an investigation or revealing the identity of the Complainant. The District shall also take immediate steps to provide for the safety of the Complainant while keeping the Complainant's identity confidential as appropriate. The District shall notify the Complainant that the request for confidentiality will limit the steps the District will take to respond to the report of sexual harassment.

If the District determines that it must disclose the student-Complainant's identity to the Respondent or proceed with a Formal Complaint, it shall inform the Complainant prior to making this disclosure or initiating the investigation. The District shall also take immediate steps to provide for the safety of the Complainant where appropriate. In the event the Complainant requests that the District inform the Respondent that the Complainant asked the District not to investigate or seek discipline, the District shall honor this request.

#### Investigations

The Title IX Coordinator is responsible to oversee investigations to ensure timely resolution and compliance with Title IX and this procedure.

Both Parties have the right to have an Advisor present at every meeting described in this section.

#### Trained Investigators

The District will investigate Title IX formal complaints fairly and objectively. Individuals serving as investigators under this procedure will have adequate training on what constitutes sexual harassment, how the District's grievance procedures operate, and trauma-informed investigation techniques. The District will also ensure that investigators receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence and complies with this procedure.

#### Burden of Gathering Evidence

The District, not the Parties, has the responsibility to gather information and interview witnesses. As part of the District's burden of gathering evidence, the District's investigator will create an investigative report that fairly summarizes relevant evidence, whether it is inculpatory or exculpatory. The investigator shall not make findings or determinations of law or fact.

Student Complainants should be aware that any evidence available but not disclosed during the investigation might not be considered at a subsequent hearing, if a hearing is required under this procedure.

#### Evidence of Past Sexual History

An investigator or Decision-Maker shall not consider the past sexual history of the Complainant except in the limited circumstances described below:

- The investigator or Decision-Maker shall not consider the Complainant's prior sexual history unless such questions or evidence is offered to prove that someone other than the Respondent committed the alleged conduct; or
- The investigator or Decision-Maker shall not consider the Complainant's prior sexual behavior unless the questions or evidence concern specific incidents of the Complaint's prior sexual behavior with respect to the Respondent and are offered to prove consent.
  - Where the investigator or Decision-Maker allows consideration of questions or evidence about a dating relationship or prior or subsequent consensual sexual relations between the Complainant and the Respondent pursuant to this circumstance, the mere fact that the Complainant and Respondent engaged in other consensual sexual relations with one another is never sufficient, by itself, to establish that the conduct in question was consensual.

Before allowing the consideration of any evidence proffered pursuant to this section, the investigator or Decision-Maker shall provide a written explanation to the Parties as to why consideration of the evidence is consistent with this

procedure.

#### Notice of Investigative Interview

The District will provide written notice of the date, time, location, participants, and purpose of all investigative interviews to a Party whose participation is invited or expected, with sufficient time for the Party to prepare to participate.

#### Evidence Review

Both Parties have an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including the evidence upon which the District does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a Party or other source.

Prior to the investigator preparing an investigative report, the District will make available to each Party and the Party's Advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy. The Parties will have at least ten days to submit a written response. The investigator must consider this written response prior to completing the investigative report.

#### Investigative Report

The results of the investigation of a formal complaint will be set forth in a written report that will include at least all of the following information:

- A description of the circumstances giving rise to the formal complaint;
- A description of the procedural steps taken during the investigation, including all individuals contacted and interviewed;
- A summary of the testimony of each witness the investigator interviewed;
- An analysis of relevant evidence collected during the investigation, including a list of relevant documents;
- A table of contents if the report exceeds ten pages; and
- Any other information deemed appropriate by the District.

The investigator will not make a determination regarding responsibility.

The investigator may redact information not directly related to the allegations or privileged information. However, the investigator will keep a log of information he/she/they do not produce to the Parties. The investigator will provide this log only to the Title IX Coordinator. The Title IX Coordinator will not disclose the log to the Parties but will maintain the log in the Title IX Coordinator's file, in the event it later becomes relevant.

At least ten days prior to a hearing, the District will send the investigative report to each Party and their Advisors, if any, the investigative report in an electronic format or a hard copy, for review and written response. The Parties will have at least ten days to submit a written response.

### Hearing

After completing an investigation and prior to completing a determination regarding responsibility, the District will hold a live hearing to provide the Complainant and Respondent an opportunity to respond to the evidence gathered before a Decision-Maker. Neither Party may choose to waive the right to a live hearing, but the Parties can choose whether to participate in the hearing or answer some or all cross-examination questions.

### Notice

If the District proceeds to a hearing, the District will provide all Parties written notice of the date, time, location, participants, and purpose of the hearing with sufficient time for the Party to prepare to participate.

### Hearing Format

The District may provide a live hearing with all Parties physically present in the same geographic location or, at the District's discretion if either Party or a witness requests, the District may provide any or all Parties, witnesses, and other participants the ability to appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other in real time.

The District will make the information reviewed during the Evidence Review available at the hearing for reference and consultation. The District will not restrict the ability of either Party to discuss the allegations under investigation or to gather and present relevant evidence.

The District will create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the Parties for inspection and review.

The Decision-Maker shall provide an explanation of the meaning of the preponderance of the evidence standard and affirm that it shall apply to adjudications under this procedure. The preponderance of the evidence standard is met if the District determines that it is more likely than not that the alleged misconduct occurred, based on the facts available at the time of the decision.

### Decision-Maker

The Decision-Maker will be free from conflict of interest or bias, including bias for or against Complainants or Respondents. In cases where the Complainant or Respondent objects to the Decision-Maker based on a conflict of interest, the Complainant or Respondent may request the Title IX Coordinator select a different Decision-Maker. The Complainant or Respondent must make this request to the Title IX Coordinator in writing at least five business days prior to the hearing.

The Decision-Maker may ask the Parties and the witnesses questions during the hearing. The Decision-Maker must objectively evaluate all relevant evidence both inculpatory and exculpatory and must independently reach a determination regarding responsibility without giving deference to the investigative report. The Decision-Maker must receive training on issues of relevance, how to apply the rape-shield protections for Complainants, and any technology to be used at the hearing.

### Presenting Witnesses

The District will provide the Complainant and Respondent an equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence. Witnesses, like Parties, are not required to participate in the live hearing process.

Only relevant evidence will be admissible during the hearing. Relevant evidence means evidence, including evidence relevant to the credibility of a Party or witness, having any tendency in reason to prove or disprove any disputed fact material to the allegations under investigation.

Generally, the Parties may not introduce evidence, including witness testimony, at the hearing that the Party did not identify during the investigation and that was available at the time of the investigation. However, the Decision-Maker has discretion to accept for good cause, or exclude, such new evidence offered at the hearing.

### Cross-Examination

The District shall permit each Party's Advisor to ask the other Party and any witness relevant questions, including questions challenging credibility. The Party's Advisor must conduct cross-examination directly, orally, and in real time. A Party may never personally conduct cross-examination. The other Party shall have an opportunity to object to a question posed. The District may limit such objections to written form, and neither the Decision-Maker nor the District are obligated to respond, other than to include any objection in the record. The Decision-Maker shall have the authority and obligation to discard or rephrase any question that the Decision-Maker deems to be irrelevant. In making these determinations, the Decision-Maker is not bound by, but may take guidance from, the formal rules of evidence.

Before a Complainant, Respondent, or witness answers a question, the Decision-Maker must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. The Decision-Maker need not provide a lengthy or complicated explanation in support of a relevance determination.

If a Party or witness disagrees with a relevance determination, that individual has the choice of either (1) abiding by the Decision-Maker's determination and answering the question or (2) refusing to answer the question.

If a Party or witness does not submit to cross-examination at the live hearing, the Decision-Maker may admit any statement of that Party or witness in reaching a determination regarding responsibility. The Decision-Maker will give the statements whatever weight the Decision-Maker determines appropriate, bearing in mind that the statements have not been tested by cross-examination. In doing so, the Decision-Maker should consider, and if possible determine, whether the witness or Party made the statement and what the statement proves.

The Decision-Maker cannot draw an inference about the determination of responsibility based solely on a Party's or witness's absence from the live hearing or refusal to submit to cross-examination or to answer any question.

The Decision-Maker may also ask any Party or witness questions. If a Party or witness refuses to respond to a Decision-Maker's questions, the Decision-Maker is not precluded from relying on that Party or witness' statements.

#### Determinations of Responsibility

When the Decision-Maker makes a determination of responsibility or non-responsibility, the Decision-Maker will issue a written determination regarding responsibility, no later than 20 business days after the date that the hearing ends.

When making a determination regarding responsibility, a Decision-Maker will objectively evaluate all relevant evidence, including both inculpatory and exculpatory evidence. A Decision-Maker may not make credibility determinations based on an individual's status as a Complainant, Respondent, or witness. In evaluating the evidence, the Decision-Maker will use the preponderance of the evidence standard. Thus, after considering all the evidence it has gathered, the District will decide whether it is more likely than not that sexual harassment occurred.

The written determination will include:

- Identification of the allegations potentially constituting Title IX sexual harassment as defined in these procedures;
- A description of the procedural steps taken from the receipt of the formal complaint through the determination, including who conducted the investigation and gave notifications to the Parties. The determination will also state when, where, and the date the investigator interviewed the Parties and witnesses, conducted site visits, the methods used to gather other evidence. The procedural section should also discuss the dates and how the Parties were provided the opportunity to review and inspect evidence and the date of any hearings held and who attended the hearing;
- Findings of fact supporting the determination. In making these findings, the Decision-Maker will focus on analyzing the findings of fact that support the determination of responsibility or non-responsibility;
- Conclusions regarding the application of the District's code of conduct to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility;
- A statement of, and rationale for, any disciplinary sanctions the District imposes on the Respondent;
- A statement of whether the District will provide the Complainant with remedies designed to restore or preserve equal access to the District's education program or activity;

- The District need not disclose to the Respondent remedies that do not affect him/her/them as part of the written determination. The District can inform the Respondent that it will provide remedies to the Complainant. However, the District will inform the Complainant of the sanctions against the Respondent;
- The District's procedures and permissible bases for the Complainant and Respondent to appeal.

The District will provide the written determination to the Parties simultaneously. The determination regarding responsibility becomes final either on the date that the District provides the Parties with the written determination of the result of the appeal, if the Parties file an appeal, or if the Parties do not file an appeal, the date on which an appeal would no longer be timely.

#### Disciplinary Sanctions and Remedies

The District must have completed the grievance procedures (investigation, hearing, and any appeal, if applicable) before the imposing disciplinary sanctions or any other actions that are not supportive measures against a Respondent. If the Decision-Maker determines the Respondent was responsible for conduct that constitutes sexual harassment, the District will take disciplinary action against the Respondent and any other remedial action it determines to be appropriate. The action will be prompt, effective, and commensurate with the severity of the offense.

Remedies for the Complainant might include, but are not limited to:

- Providing an escort to ensure that the Complainant can move safely between classes and activities;
- Ensuring that the Complainant and Respondent do not attend the same classes or work in the same work area;
- Providing counseling services or a referral to counseling services;
- Providing medical services or a referral to medical services;
- Providing academic support services, such as tutoring;
- Arranging for a Complainant, if a student, to re-take a course or withdraw from a class without penalty, including ensuring that any changes do not adversely affect the Complainant's academic record; and
- Reviewing any disciplinary actions taken against the Complainant to see if there is a causal connection between the harassment and the misconduct that may have resulted in the Complainant's discipline.

Possible disciplinary sanctions for student Respondents include written or verbal reprimand, required training or counseling, non-academic probation, suspension, and expulsion. Possible disciplinary sanctions for employee Respondents include written or verbal reprimand, required training or counseling, reduction in pay, demotion, suspension, or discharge.

#### Appeal of Dismissal of a Formal Complaint or of the Determination of Responsibility

A Complainant or Respondent may appeal the District's determination regarding responsibility or the dismissal of a formal complaint or any allegations. A Complainant or Respondent must submit a written appeal within ten business days from the date of the notice of determination regarding responsibility or from the date of the District's notice of dismissal of a formal complaint or any allegations.

#### Grounds for Appeal

The Superintendent/President, or designee, will serve as the Decision-Maker on Appeal. In filing an appeal of the District's determination regarding responsibility or the District's dismissal of a formal complaint, the Party must state the grounds for appeal and a statement of facts supporting those grounds. The grounds for appeal are as follows:

- A procedural irregularity affected the outcome;
- New evidence was not reasonably available at the time the District's determination regarding responsibility or dismissal was made, and this new evidence could affect the outcome; or
- The District's Title IX Coordinator, investigator, or Decision-Maker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome.

#### Appeal Procedure

If the Complainant or Respondent submit an appeal to the District, the District will:

- Notify the other Party in writing within five business days of receiving a Party's appeal;
- Allow the non-appealing Parties at least ten business days from the date of receipt of the appeal to submit a written statement in support of, or challenging, the outcome;

The appeal Decision-Maker will issue a written decision on whether to grant or deny the appeal, and the rationale for the decision, within 45 business days after the Decision-Maker on appeal receives the response to the appeal or the last day to provide a response. The District will provide the written decision simultaneously to both Parties.

The Decision-Maker on appeal may extend or otherwise modify the deadlines provided above. Either Party may seek an extension by submitting a written request to the appeal Decision-Maker explaining the need for the extension and the proposed length of the extension. The Decision-Maker will respond to the request within 48 hours in writing and will inform the Parties simultaneously whether the extension is granted.

#### Informal Resolution

If the District determines that a formal complaint is appropriate for informal resolution, it may provide the Parties with the opportunity to participate in an

informal resolution process, including mediation, at any time prior to reaching a determination regarding responsibility.

The District will provide the Complainant and Respondent written disclosure of the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the Parties from resuming a formal complaint arising from the same allegations, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

The District must obtain the Parties' voluntary, written consent to the informal resolution process. If the Parties reach an agreement, the District does not have to complete a full investigation and adjudication of a report of sexual harassment. At any time prior to agreeing to a resolution, any Party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint.

The informal resolution process is not available to resolve allegations that an employee sexually harassed a student or any allegations of sexual assault.

#### Retaliation Prohibited

The District prohibits any intimidation, threats, coercion, or discrimination against any individual who made a report or complaint of sexual harassment, testified, assisted, or participated or refused to participate in any manner in a Title IX investigation, proceeding, or hearing. Individuals who experience retaliation may file a complaint using the formal complaint process described above.

#### Dissemination of Policy and Procedures

The District will provide its policy and procedures related to Title IX on its website and in each handbook or catalog provided to applicants for admission and employment, students, employees, and all unions or professional organizations holding collective bargaining with the District. The District will also provide its policy and procedures related to Title IX to all volunteers who will regularly interact with students and each individual or entity under contract with the District to perform any service involving regular interaction with students.

When hired, employees are required to sign acknowledging that they have received the policy and procedures. The District will place the signed acknowledgment of receipt in each employee's personnel file.

#### Training

The District will provide a comprehensive trauma-informed training program to Title IX Coordinators, investigators, Decision-Makers, and any individual who facilitates an informal resolution process, on the definition of sexual harassment, the scope of the District's education program or activities, best practices for assessment of a sexual harassment complaint, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, how to serve impartially, including avoiding prejudgment

of the facts at issue, conflicts of interest, bias, and implicit bias and racial inequities, both broadly and in school disciplinary processes. Any materials used to train the District's Title IX Coordinator, investigators, Decision-Makers, and any person who facilitates an informal resolution process, will not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment. Materials for this training must include statistics on the prevalence of sexual harassment and sexual violence in the educational setting, and the differing rates at which students experience sexual harassment and sexual assault in the educational setting based on their race, sexual orientation, disability, gender, and gender identity.

The District will provide Officials with Authority with training regarding his/her/their obligation to report sexual harassment and instruction on how to report sexual harassment to the Title IX Coordinator.

#### File Retention

The District will retain on file for a period of at least seven years after closing the case copies of:

- The original report or complaint;
- Any actions taken in response to the complaint, including supportive measures;
- The investigative report including all evidence gathered and any responses from the Parties;
- The District's determination regarding responsibility;
- Audio or audiovisual recording or transcript from a hearing;
- Records of any disciplinary sanctions imposed on the Respondent;
- Records of any remedies provided to the Complainant;
- Any appeal and the result;
- Any informal resolution and the result; and
- All materials used to train Title IX Coordinators, investigators, Decision-Makers, and any person who facilitates an informal resolution process. The District will make these training materials publicly available on its website.

The District will make these documents available to the U.S. Department of Education Office for Civil Rights upon request.

#### Complaint Reporting

The Superintendent/President shall provide the Board of Trustees, upon request, a report of complaints filed pursuant to this procedure. This report must disaggregate the complaints by complaint type (Student Complainant and Student Respondent, Student Complainant and Employee Respondent, Employee Complainant and Student Respondent, Employee Respondent and Employee Respondent, etc.). This report must also disaggregate the complaints by the Complainant's race, age, gender, religion, or any other characteristic identified by the Board.

**References: Education Code Sections 67380 et seq.;34 Code of Federal Regulations Parts 106.1 et seq.; 20 U.S. Code Sections 1681 et seq.**

**Adopted:**

<b>BP/AP APPROVAL PROCESS</b>		
<b>Author</b>	<b>30-Day</b>	<b>Board</b>
Bratsch; Human Resources	9/22/23	n/a

DISCRIMINATION AND HARASSMENT COMPLAINTS AND INVESTIGATIONS

~~The law prohibits coworkers, supervisors, managers, and third parties with whom an employee, student, or applicant for admission or employment comes into contact from engaging in harassment, discrimination, or retaliation. Any person who has suffered harassment, discrimination, or retaliation may file a formal or informal complaint of harassment, discrimination, or retaliation.~~

Informal Complaints

~~An informal complaint is: (1) A written or unwritten allegation of harassment, discrimination, or retaliation with a request to engage in the informal process; (2) a written allegation of harassment, discrimination, or retaliation that falls outside the timelines for a formal complaint.~~

~~Any person may submit an informal complaint to the Dean, Human Resources or any other District or college administrator. Administrators receiving an informal complaint shall immediately notify the Dean, Human Resources in writing of all pertinent information and facts alleged in the informal complaint.~~

~~Upon receipt of an informal complaint, the Dean, Human Resources will notify the person bringing the informal complaint of his/her right to file a formal complaint, if the incident falls within the timeline for a formal complaint and explain the procedure for doing so. The complainant may later decide to file a formal complaint, if within the timelines to do so. If the individual chooses not to file a formal complaint, or if the alleged conduct falls outside the timeline to file a formal complaint, the Dean, Human Resources shall consider the allegations contained in the informal complaint and determine the appropriate course of action. This may include efforts to informally resolve the matter, or a fact-finding investigation.~~

~~Investigation of an informal complaint will be appropriate if the Dean, Human Resources determines that the allegation(s), if proven true, would constitute a violation of the District policy prohibiting harassment, discrimination, or retaliation. The Dean, Human Resources will explain to any individual bringing an informal complaint that the Dean, Human Resources may decide to initiate an investigation, even if the individual does not wish the Dean, Human Resources to do so. However, the complainant's confidentiality will be preserved to the maximum extent possible. The Dean, Human Resources shall not disregard any allegations of harassment, discrimination, or retaliation solely on the basis that the alleged conduct falls outside the deadline to file a formal complaint.~~

Formal Complaints

~~A formal complaint is a written and signed statement filed with the District or the California Community Colleges Chancellor's Office that alleges harassment, discrimination, or retaliation in violation of the District's Board Policies, Administrative Procedures or in violation of state or federal law.~~

~~Formal Complaints must be filed with the Chancellor of the California Community Colleges or the Dean, Human Resources unless the party submitting the Formal Complaint alleges discrimination, harassment, or retaliation against the responsible district officer, in which case it should be submitted directly to the Superintendent/President or the Chancellor of the California Community Colleges.~~

~~Formal Complaints should be submitted on the form prescribed by the Chancellor of the California Community Colleges. A copy of the form will be available at the District Human Resources Department and on district's web site.~~

~~If any party submits a written allegation of harassment, discrimination, or retaliation not on the form described above, the District will seek to have the individual complete and submit the form. However, if the individual chooses not to do so, the District will attach the written allegation(s) to the form and treat it as a Formal Complaint. In no instance will the District reject a written allegation of harassment, discrimination, or retaliation on the basis that it was not submitted on the proper form.~~

~~A Formal Complaint must meet each of the following criteria:~~

- ~~• It must allege facts with enough specificity to show that the allegations, if true, would constitute a violation of District policies or procedures prohibiting discrimination, harassment, or retaliation;~~
- ~~• The complainant must sign and date the Formal Complaint;~~
- ~~• The complainant must file any Formal Complaint not involving employment within one year of the date of the alleged discriminatory, harassing, or retaliatory conduct or within one year of the date on which the complainant knew or should have known of the facts underlying the allegation(s) of discrimination, harassment, or retaliation.~~
- ~~• The complainant must file any Formal Complaint alleging discrimination, harassment, or retaliation in employment within 180 days of the date of the alleged discriminatory, harassing, or retaliatory conduct, except that this period shall be extended by no more than 90 days following the expiration of the 180 days if the complainant first obtained knowledge of the facts of the alleged violation after the expiration of the 180 days.~~

~~If the Formal Complaint does not meet the requirements set forth above, the Dean, Human Resources will promptly return it to the complainant and specify the defect. If the sole defect is that the Formal Complaint was filed outside the applicable proscribed timeline, the Dean, Human Resources will handle the matter as an informal complaint.~~

~~Oversight of Complaint Procedure: The Dean, Human Resources is the "responsible District officer" charged with receiving complaints of discrimination or~~

harassment and coordinating their investigation.

The actual investigation of complaints may be assigned by Dean, Human Resources to other trained, qualified staff or to outside persons or organizations under contract with the District. This shall occur whenever the Dean, Human Resources is named in the complaint or implicated by the allegations in the complaint.

Authority over the parties:

The District has authority over students, employees, and third parties for alleged violations of this policy that occur on District property or in District programs and activities. The District will exercise authority over events that occur off-campus to determine if the conduct occurred in the context of an education program or activity or had continuing effects on campus or in an off-campus education program or activity.

Who May File a Complaint:

Any student, employee, or third party, individually or as a member of a class or on behalf of others, may file a complaint alleging discrimination or harassment that is prohibited by the District's anti-discrimination and anti-harassment policies and procedures. A student, employee, or third party who believes he/she has been discriminated against or harassed in violation of these policy and procedures may make a complaint orally or in writing.

Where to File a Complaint:

If a complainant decides to file a formal written unlawful discrimination or harassment complaint against the District, he/she must file the complaint on a form prescribed by the California Community Colleges Chancellor's Office. These approved forms are available from the Dean, Human Resources and at the California Community Colleges Chancellor's Office website.

The completed formal complaint form must be filed with any of the following:

- The Dean, Human Resources, 915 South Mooney Blvd., Visalia, CA 93277;
- The Superintendent/President, 915 South Mooney Blvd., Visalia, CA 93277 or;
- The California Community Colleges Chancellor's Office, 1102 Q Street, Sacramento, California, 95811.

*Complaints alleging Discrimination against Students/Applicants for Admission:*

Student complainants shall be notified that they may file a discrimination complaint with the U.S. Department of Education, Office for Civil Rights (OCR), 50 United Nations Plaza, Room 1490, Mailbox 1200, San Francisco, California 94102; (415) 486-5555.

*Employment-Related Complaints:*

Employee complainants shall be notified that they may file employment discrimination complaints with the U.S. Equal Employment Opportunity Commission (EEOC), Royal Federal Building, 2444 East Temple Street, 4<sup>th</sup> Floor,

~~Los Angeles, California, 90012, or the Department of Fair Employment and Housing (DFEH), 2218 Kausen Drive, Suite 100, Elk Grove, California, 95758.~~

~~Complaints filed with the EEOC and/or the DFEH should be forwarded to the California Community Colleges Chancellor's Office.~~

~~Any District employee who receives a harassment or discrimination complaint, regardless of whether it is brought by a student, employee, or third party, shall notify the Dean, Human Resources immediately. Upon receiving a Formal complaint, as described above, regardless of whether the complaint is brought by a student, employee, or third party, the District shall forward a copy of the Formal Complaint to the California Community Colleges Chancellor's Office.~~

~~Filing a Timely Complaint:~~

~~Since failure to report harassment and discrimination impedes the District's ability to stop the behavior, the District strongly encourages anyone who believes they are being harassed or discriminated against, to file a complaint. The District also strongly encourages the filing of such complaints as soon as possible after the alleged incident. While all complaints are taken seriously and will be investigated promptly, delay in filing impedes the District's ability to investigate and remediate.~~

~~All supervisors and managers have a mandatory duty to report incidents of harassment and discrimination; the existence of a hostile, offensive or intimidating work or educational environment, and acts of retaliation.~~

~~The District will investigate complaints involving acts that occur off campus if they are related to a District program or activity or if the discriminatory or harassing conduct interferes with or limits a student's, employee's, or applicant's ability to participate in or benefit from the school's programs or activities.~~

~~Communicating that the Conduct is Unwelcome: The District further encourages students and staff to let the offending person know immediately and firmly that the conduct or behavior is unwelcome, offensive, in poor taste or inappropriate.~~

~~Intake and Processing of the Complaint: Upon receiving notification of a harassment or discrimination complaint, the Dean, Human Resources shall:~~

- ~~• Upon approval by the parties involved, and when appropriate, undertake efforts to informally resolve the charges, including but not limited to mediation, rearrangement of work/academic schedules; obtaining apologies; providing counseling and/or training, etc.~~
- ~~• Advise the complainant that he/she need not participate in an informal resolution of the complaint, as described above, and has the right to end the informal resolution process at any time.—~~
- ~~• Advise a student complainant or applicant for admission that he/she may file a complaint with the Office of Civil Rights of the U.S. Department of Education and employee complainants or applicants for employment may~~

~~file a complaint with the Department of Fair Employment and Housing. All complainants should be advised that they have a right to file a complaint with local law enforcement. The District must investigate even if the complainant files a complaint with local law enforcement. In addition, the District should ensure that complainants are aware of any available resources, such as counseling, health, and mental health services. The Dean, Human Resources shall also notify the California Community Colleges Chancellor's Office of the complaint.~~

- ~~• Take interim steps to protect a complainant from coming into contact with an accused individual, especially if the complainant is an alleged victim of violence, including sexual violence. The Dean, Human Resources should notify the complainant of his/her options to avoid contact with the accused individual and allow students to change academic situations as appropriate. For instance, the District may prohibit the parties from having any contact with each other pending the results of the investigation. When taking steps to separate the complainant and accused individual, the District shall minimize the burden on the complainant. For example, it is not appropriate to remove complainants from classes or housing while allowing accused individuals to remain.~~

Authorization of an Investigation:

The Dean, Human Resources shall:

- ~~• Authorize the investigation of the complaint, and supervise and/or conduct a thorough, prompt and impartial investigation of the complaint, as set forth below. Where complainants opt for informal resolution, the designated officer will determine whether further investigation is necessary to ensure resolution of the matter and utilize the investigation process outlined below as appropriate. In the case of a formal complaint, the investigation will include interviews with the complainant, the accused, and any other persons who may have relevant knowledge concerning the complaint. This may include victims of similar conduct.~~
- ~~• Review the factual information gathered through the investigation to determine whether the alleged conduct constitutes harassment, or other unlawful discriminatory conduct, giving consideration to all factual information and the totality of the circumstances, including the nature of the verbal, physical, visual or sexual conduct, and the context in which the alleged incidents occurred.~~

Investigation of the Complaint:

~~The District shall promptly investigate every complaint and claim of harassment or discrimination. No claim of workplace or academic harassment or discrimination shall remain unexamined. This includes complaints involving activities that occur off campus and in connection with all the academic, educational, extracurricular, athletic, and other programs or activities of the District, whether those programs or activities take place in the District's facilities, on a District vehicle, or at a class or training program sponsored by the District at another location. The District shall~~

~~promptly investigate complaints of harassment or discrimination that occur off-campus if the alleged conduct creates a hostile environment on campus.~~

~~As set forth above, where the complainant opts for an informal resolution, the Dean, Human Resources may limit the scope of the investigation, as appropriate. The District will keep the investigation confidential to the extent possible, but cannot guarantee absolute confidentiality because release of some information on a "need-to-know basis" is essential to a thorough investigation. When determining whether to maintain confidentiality, the District may weigh the request for confidentiality against the following factors: the seriousness of the alleged harassment; the complainant's age; whether there have been other harassment complaints about the same individual; and the accused individual's rights to receive information about the allegations if the information is maintained by the District as an "education record" under the Family Educational Rights and Privacy Act (FERPA), 20 U.S. Code Section 1232g; 34 Code Federal Regulations Part 99.15. The District will inform the complainant if it cannot maintain confidentiality.~~

#### ~~Investigation Steps:~~

~~The District will fairly and objectively investigate harassment and discrimination complaints. Employees designated to serve as investigators under this policy shall have adequate training on what constitutes discrimination, harassment including sexual harassment and sexual violence, and that they understand how the District's grievance procedures operate. The investigator may not have any real or perceived conflicts of interest and must be able to investigate the allegations impartially.~~

~~Investigators will use the following steps: interviewing the complainant(s); interviewing the accused individual(s); identifying and interviewing witnesses and evidence identified by each party; identifying and interviewing any other witnesses, if needed; reminding all individuals interviewed of the District's no-retaliation policy; considering whether any involved person should be removed from the campus pending completion of the investigation; reviewing personnel/academic files of all involved parties; reach a conclusion as to the allegations and any appropriate disciplinary and remedial action; and see that all recommended action is carried out in a timely fashion.~~

~~When the District evaluates the complaint, it shall do so using a preponderance of the evidence standard. Thus, after considering all the evidence it has gathered, the District will decide whether it is more likely than not that discrimination or harassment has occurred.~~

#### ~~Timeline for Completion:~~

~~The District will undertake its investigation promptly and swiftly as possible. To that end, the investigator shall complete the above steps, and prepare a written report within 90 days of the District receiving the complaint, unless an extension has been granted. The Dean, Human Resources will notify all the parties involved of the District's determination, in writing, within 10 days of the determination being made.~~

### Cooperation Encouraged:

All students and employees are expected to cooperate with a District investigation into allegations of harassment or discrimination. Lack of cooperation impedes the ability of the District to investigate thoroughly and respond effectively. However, lack of cooperation by a complainant or witnesses does not relieve the District of its obligation to investigate. The District will conduct an investigation if it is discovered that harassment is, or may be occurring, with or without the cooperation of the alleged victim(s) and regardless of whether a complaint is filed. No employee will be retaliated against as a result of lodging a complaint or participating in any workplace investigation.

### Written Report:

The results of the investigation of a complaint shall be set forth in a written report that will include at least all of the following information:

- A description of the circumstances giving rise to the Formal Complaint;
- A summary of the testimony provided by each witness interviewed by the investigator;
- An analysis of relevant evidence collected during the course of the investigation;
- A specific finding as to whether there is probable cause to believe that discrimination, harassment, or retaliation occurred with respect to each allegation in the complaint; and
- Any other information deemed appropriate by the District.

### Confidentiality of the Process:

Investigations are best conducted within a confidential climate. Therefore, the District does not reveal information about ongoing investigations except as necessary to fulfill its legal obligations. The District will keep the investigation confidential to the extent possible, but it cannot guarantee absolute confidentiality because release of some information on a "need to know basis" is essential to a thorough investigation and to protect the rights of accused students and employees during the investigation process and any ensuing discipline.

### Administrative Determination:

In any case not involving employment discrimination, within 90 days of receiving a formal complaint, the district shall complete its investigation and forward a copy of the investigative report to the Chancellor of the California Community Colleges, a copy or summary of the report to the complainant, and written notice setting forth all of the following to both the complainant and the Chancellor:

- The determination of the Superintendent/President or his/her designee as to whether there is probable cause to believe discrimination occurred with respect to each allegation in the complaint;
- A description of actions taken, if any, to prevent similar problems from occurring in the future;
- The proposed resolution of the complaint; and
- The complainant's right to appeal to the District governing board and the Chancellor California Community Colleges.

~~In any case involving employment discrimination, within 90 days of receiving a formal complaint, the District shall complete its investigation and forward a copy or summary of the report to the complainant, and written notice setting forth all the following to the complainant:~~

- ~~• The determination of the Superintendent/President or his/her designee as to whether there is probable cause to believe discrimination occurred with respect to each allegation in the complaint;~~
- ~~• A description of actions taken, if any, to prevent similar problems from occurring in the future;~~
- ~~• The proposed resolution of the complaint; and~~
- ~~• The complainant's right to appeal to the district governing board and to file a complaint with Department of Fair Employment and Housing or the U.S. Equal Employment Opportunity Commission.~~

Discipline and Corrective Action:

~~If harassment, discrimination or retaliation occurred in violation of the policy or procedure, the District shall take disciplinary action against the accused and any other remedial action it determines to be appropriate. The action will be prompt, effective, and commensurate with the severity of the offense. Remedies for the complainant might include, but are not limited to:~~

- ~~• providing an escort to ensure that the complainant can move safely between classes and activities;~~
- ~~• ensuring that the complainant and alleged perpetrator do not attend the same classes or work in the same work area;~~
- ~~• preventing offending third parties from entering campus;~~
- ~~• providing counseling services or a referral to counseling services;~~
- ~~• providing medical services or a referral to medical services;~~
- ~~• providing academic support services, such as tutoring;~~
- ~~• arranging for a student complainant to re-take a course or withdraw from a class without penalty, including ensuring that any changes do not adversely affect the complainant's academic record; and~~
- ~~• reviewing any disciplinary actions taken against the complainant to see if there is a causal connection between the harassment and the misconduct that may have resulted in the complainant being disciplined~~
- ~~• conducting climate surveys, including subsequent evaluation and corrective actions, as appropriate~~
- ~~• circulating memoranda to student and staff about pertinent District policy; and~~
- ~~• other remedies as deemed necessary by the District.~~

~~If the District imposes discipline, the nature of the discipline will not be communicated to the complainant. However, the District may disclose information about the sanction imposed on an individual who was found to have engaged in harassment when the sanction directly relates to the complainant's contact with the individual; for example, the District may inform the complainant that the harasser must stay away from the complainant.~~

~~Disciplinary actions against faculty, staff, and students will conform to all relevant statutes, regulations, personnel policies and procedures, including the provisions of any applicable collective bargaining agreement.~~

~~The District shall also take reasonable steps to protect the complainant from further harassment, or discrimination, and to protect the complainant and witnesses from retaliation as a result of communicating the complaint or assisting in the investigation.~~

~~The District will ensure that complainants and witnesses know how to report any subsequent problems and should follow up with complainants to determine whether any retaliation or new incidents of harassment have occurred. The District shall take reasonable steps to ensure the confidentiality of the investigation and to protect the privacy of all parties to the extent possible without impeding the District's ability to investigate and respond effectively to the complaint.~~

~~If the District cannot take disciplinary action against the accused individual because the complainant refuses to participate in the investigation, it should pursue other steps to limit the effects of the alleged harassment and prevent its recurrence.~~

#### Appeals:

~~If the District imposes discipline against a student or employee as a result of the findings in its investigation, the student or employee may appeal the decision using the procedure for appealing a disciplinary decision.~~

~~If the complainant is not satisfied with the results of the administrative determination, he/she may, within fifteen days, submit a written appeal to the Board of Trustees. The Board shall review the original complaint, the investigative report, the administrative decision, and the appeal. The Board shall issue a final District decision in the matter within 45 days after receiving the appeal. A copy of the decision rendered by the Board shall be forwarded to the complainant. If the appeal is made to the Board in connection with a formal complaint, the District shall forward a copy of the Board's final decision to the California Community Colleges Chancellor's Office.~~

~~If the Board does not act within 45 days the administrative determination shall be deemed approved and shall become the final decision of the District in the matter.~~

~~In any case not involving workplace discrimination, harassment, or retaliation, the complainant shall have the right to file a written appeal with the California Community Colleges Chancellor's Office within thirty days after the Board issued the final District decision or permitted the administrative decision to become final. Such appeals shall be processed pursuant to the provision of Title 5 Section 59350.~~

~~In any case involving employment discrimination, including workplace harassment, the complainant may, at any time before or after the issuance of the final decision~~

~~of the District, file a complaint with the Department of Fair Employment and Housing (DFEH), 2218 Kausen Drive, Suite 100, Elk Grove, California, 95759 or the U.S. Equal Opportunity Employment Commission (EEOC), Royal Federal Building, 255 East Temple Street, 4<sup>th</sup> Floor, Los Angeles, California, 90012.~~

~~In cases involving student discrimination, including harassment, the complainant may, at any time before or after the issuance of the final decision of the District, file a complaint with the U.S. Department of Education, Office for Civil Rights (OCR), 50 United Nations Plaza, Room 1490, Mailbox 1200, San Francisco, California, 94102; (415) 486-5555.~~

~~Extension of Time:~~

~~Within 150 days of receiving a formal complaint, the District shall forward to the California Community Colleges Chancellor's Office the original complaint, the investigative report, a copy of the written notice to the complainant setting forth the results of the investigation, a copy of the final administrative decision rendered by the Board or indicating the date upon which the decision became final, and a copy of the notification to the complainant of his/her appeal rights. If, due to circumstances beyond its control, the District is unable to comply with the 150-day deadline for submission of materials, it may file a written request for an extension of time no later than ten days prior to the expiration of the deadline.~~

~~File Retention:~~

~~The District will retain on file for a period of at least three years after closing the case copies of:~~

- ~~• the original complaint;~~
- ~~• the investigatory report;~~
- ~~• the summary of the report if one is prepared;~~
- ~~• the notice provided to the complainant, of the District's administrative determination and his/her right to appeal;~~
- ~~• any appeal;~~
- ~~• the District's final decision;~~
- ~~• Documentation of any corrective action taken.~~

~~The District will make such documents available to the Chancellor of the California Community Colleges upon request.~~

~~Where the complaint allegation consists of Sexual Misconduct, as defined by Title IX, the following applies:~~

~~Sexual Misconduct:~~

- ~~• Sexual misconduct includes sexual harassment and sexual violence.~~
- ~~• Sexual harassment may include unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone from or in the work or education setting.~~
- ~~• Sexual violence refers to physical sexual acts perpetrated against a person's will or when a person is incapable of giving consent due to the victim's use of~~

~~drugs or alcohol or due to an intellectual or other disability. Sexual violence includes rape, sexual assault, sexual battery, and sexual coercion.~~

- ~~• Affirmative consent means an affirmative, conscious, and voluntary agreement to engage in sexual activity.~~
- ~~• Sexual misconduct creates a hostile environment if the conduct is sufficiently serious that it interferes with or limits a student's ability to participate in or benefit from the District's program. A single or isolated incident may create a hostile environment if the incident is sufficiently severe.~~

#### Complaint Procedure:

~~Where the complaint involves a minor, the District will comply with California mandated reporting requirements.~~

~~All responsible employees are required to report all actual or suspected sexual misconduct to the Title IX Coordinator immediately. A responsible employee is any employee who has the authority to take action to redress sexual misconduct, who has been given the duty of reporting incidents of sexual misconduct to the Title IX Coordinator or Dean, Human Resources, or whom a student or employee could reasonable believe has this authority or duty. The District is on notice if a responsible employee knew, or in the exercise of reasonable care should have known, about the sexual misconduct.~~

~~Any person may make a complaint by contacting the Title IX Coordinator directly. The District's Title IX Coordinator is John Bratsch, Dean, Human Resources, located at the District's Human Resources Office. The Title IX Coordinator will receive all relevant details about the alleged sexual misconduct reported to the District responsible employee in order to determine what occurred and how to resolve the situation. This includes the names of alleged victim and alleged perpetrator (if known), and the date, time, and location of the alleged sexual misconduct.~~

#### Privileged or Confidential Reporting:

~~A District employee should, whenever possible, before a student or employee reveals information that he/she may wish to keep confidential, ensure that the person making the report understands the employees obligations to report to the Title IX Coordinator, the victims option to request confidentiality, which the District will take into consideration, and the victims ability to share the information confidentially with designated District employees.~~

~~Professional, licensed, mental health counselors, who provide mental health counseling to members of the District community, or interns, graduate students, and others supervised by professional licensed counselors, are not required to report any information to the Title IX Coordinator.~~

~~Non-professional counselors who work or volunteer in the Health Center including front desk personnel and student employees in the course of their duties, may maintain confidentiality. They are not required to report actual or suspected sexual misconduct to the Title IX Coordinator in a way that identifies the student without the victim's consent.~~

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Upon Receiving the Complaint – Health and Safety:

The Title IX Coordinator, together with the District Chief of Police, will make an immediate assessment concerning the health and safety of the victim and campus community as a whole. The District will provide the reporting party and responding party with immediate, interim measures necessary to protect his/her health and safety. These immediate, interim measures may include as examples: providing an escort to ensure that the victim can move safely between classes, ensuring that the victim and perpetrator do not attend the same classes or work in the same area, preventing offending third parties from entering campus, providing counseling services or a referral to counseling services, providing academic support services, such as tutoring, arranging for a victim to retake a course or withdraw from a course without penalty, including ensuring that any changes do not adversely affect the victims' academic record, and reviewing any disciplinary actions taken against the victim to see if there is a causal connection between the harassment, discrimination, or retaliation and the misconduct that may have resulted in the victim being disciplined.

Where the District determines that there is a substantial threat to the campus community, it will issue a timely warning. The District will issue the warning according to District Administrative Procedures. The District will not disclose the victim's name or other identifying information when issuing the warning.

Communicating that the Conduct is Unwelcome:

The employee or student may, but is not required to let the offending person know immediately and firmly that the conduct or behavior is unwelcome, offensive, in poor taste, or inappropriate. This is not required.

Intake and Processing of the Complaint:

If the District determines that a sexual misconduct complaint is appropriate for informal resolution, it may permit an informal resolution, including mediation. All parties, including the complainant and respondent, must receive full disclosure of the allegations and information about options for formal resolution before voluntarily agreeing to participate in an informal resolution. If parties agree to an informal resolution, the District does not have to complete a full investigation and adjudication of a report of sexual misconduct.

Confidentiality:

Where the victim requests confidentiality regarding a reportable incident, the District will take all reasonable steps to comply with the victim's request or inform the victim when it cannot ensure confidentiality. The District will not disclose the name of the victim unless the victim provides written consent after being informed of his/her right to have the information withheld. Where the victim insists that the District not disclose his/her name or other identifiable information to the alleged perpetrator, the District will inform the victim that its ability to respond will be limited. The District will evaluate this request in the context of its responsibility to provide a safe and nondiscriminatory environment for all employees and students. When weighing a request for confidentiality against the seriousness of the alleged harassment, the Title IX Coordinator will take the factors listed above into

consideration.—

Fact-Finding Investigation:

~~Where the victim has filed a criminal complaint with local law enforcement, the District will consider what information the District is able to share, pursuant to state and federal law, to ensure that victims are not unnecessarily required to give multiple statements about a traumatic event. The District will continue to conduct its own thorough, reliable, prompt, and impartial investigation. The District will normally complete its sexual misconduct investigation within 90 days of receiving the complaint, unless extended by the Title IX Coordinator for good cause. The Title IX Coordinator will notify the victim and accused in writing of the reason for the extension and the projected new timeline.~~

~~The victim and accused will have equal opportunity to present relevant witnesses and other evidence to the District investigator. The District will provide the same opportunities to the victim and accused, for example if the District permits the victim or accused to have a lawyer or other advisor present, it must do so for the other party. Any District imposed restrictions on the ability of a lawyer or other advisor to speak or participate in the interview must also apply equally.—~~

~~The results of the fact-finding investigation will be set out in a formal investigative report which will include the requirements listed above and a credibility determination of the victim, accused, and witnesses.~~

Reporting to California Community Colleges Chancellor's Office:

~~The District considers all sexual misconduct complaints to be formal complaints.— The Title IX Coordinator or other designated person must notify the State Chancellor's Office of any sexual misconduct complaints. Upon completing the investigation, the District shall forward to the California Community Colleges Chancellor's Office a copy of the investigative report and administrative determination and to the complainant a copy or summary of the investigative report and administrative determination.—~~

Dissemination of Policy and Procedures:

~~District Policy and Procedures related to harassment and discrimination will include information that specifically addresses sexual violence. District policy and procedures will be provided to all students, faculty members, members of the administrative staff and members of the support staff, and will be posted on-campus and on the District's website.~~

~~When hired, employees are required to sign that they have received the policy and procedures, and the signed acknowledgment of receipt is placed in each employee's personnel file. In addition, these policies and procedures are incorporated into the District's course catalogs and orientation materials for new students.~~

Training:

~~All new supervisory employees must be provided with anti-discrimination training and education within six months of their assumption of a supervisory position. The~~

~~District shall provide anti-discrimination training, including sexual harassment training and education, to each supervisory employee once every two years.~~

~~The training and education required by this procedure shall include information and practical guidance regarding the federal and state statutory provisions concerning the prohibition against and the prevention and correction of discrimination, including sexual harassment and the remedies available to victims of discrimination, harassment, sexual harassment in employment. The training and education shall also include practical examples aimed at instructing supervisors in the prevention of harassment, discrimination, and retaliation, and shall be presented by trainers or educators with knowledge and expertise in the prevention of harassment, discrimination, and retaliation.~~

~~The District will maintain appropriate records of the training provided, including the names of the supervisory employees trained, the date of training, sign in sheets, copies of all certificates of attendance or completion issued, the type of training provided, a copy of all written or recorded training materials, and the name of the training provider. If the training is provided by webinar, the District will maintain a copy of the webinar, all written materials used by the training and all written questions submitted during the webinar, and document all written response or guidance the trainer provided during the webinar. The District will retain these records for at least two years.~~

#### Education and Prevention for Students:

~~In order to take proactive measures to prevent the discrimination and harassment towards students and applicants for admission, including sexual harassment and violence, the District will provide preventive education programs and make victim resources, including comprehensive victim services, available. The District will include such programs in their orientation programs for new students, and in training for student athletes and coaches. These programs will include discussion of what constitutes discrimination and harassment, including sexual harassment and sexual violence, the District's policies and disciplinary procedures, and the consequences of violating these policies. A training program or informational services will be made available to all students at least once annually.~~

~~The education programs will also include information aimed at encouraging students to report incidents of discrimination and harassment, including sexual harassment and sexual violence to the appropriate District and law enforcement authorities. Since victims or third parties may be deterred from reporting incidents if alcohol, drugs, or other violations of District or campus rules were involved, the District will inform students that the primary concern is for student safety and that use of alcohol or drugs never makes the victim at fault for sexual harassment and/or violence. If other rules are violated, the District will address such violations separately from an allegation of sexual harassment and/or violence.~~

~~References: 20 U.S. Code Sections 1681 et seq.; Education Code Sections 212.5, 231.5, 66281.5, and 67386; Government Code Section 12950.1; Title 5 Sections 59320, 59324, 59326, 59328, and 59300 et seq.; Title 2 Sections 11023 and 11024; 34 Code of Federal Regulations Section 106.8(b)~~

Adopted:—November 7, 2019

## Discrimination and Harassment Complaints and Investigations

For sexual harassment under Title IX, Complainants must proceed under BP 3433 Prohibition of Sexual Harassment under Title IX, AP 3433 Prohibition of Sexual Harassment under Title IX, and AP 3434 Responding to Harassment Based on Sex under Title IX. For other forms of sexual harassment or gender-based harassment, Complainants should use this procedure.

### Reporting and Filing Complaints

The law prohibits coworkers, supervisors, managers, and third parties with whom an employee comes into contact from engaging in harassment, discrimination, or retaliation. Any person who has suffered harassment, discrimination, or retaliation or who has learned of harassment, discrimination, or retaliation may report harassment, discrimination, or retaliation. Complainants may have the option of filing a Complaint.

All responsible employees are required to report all actual or suspected sexual harassment to the Dean, Human Resources immediately. A responsible employee is any employee who has the authority to take action to redress sexual harassment or provide supportive measures to students, or who has been given the duty of reporting incidents of sexual harassment to an appropriate District official who has that authority.

### Confidential Reporting

An employee who is a therapist, physician, psychotherapist, member of the clergy, sexual assault counselor, domestic violence counselor, or other individual acting in a professional capacity for which confidentiality is mandated by law is exempt from having to report sexual harassment concerns to the Title IX Coordinator or other designated employee, unless otherwise required by law.

An employee who is not considered a responsible employee must inform each student who provides him/her/them with information regarding sexual harassment of the student's ability to report to a responsible employee and direct the student to those specific reporting resources.

### Outreach

When a responsible employee reports actual or suspected sexual harassment involving students to the Dean, Human Resources, the Dean, Human Resources will assess the report of sexual harassment and provide outreach, as appropriate, to each identifiable student who is alleged to be the victim of the reported conduct. The outreach shall include all of the following information:

- The District received a report that the student may have been a victim of sexual harassment;

- A statement that retaliation for filing a complaint or participating in the complaint process, or both, under this procedure is prohibited;
- Counseling resources within the District or in the community;
- Where a crime may have occurred, notice that the student has the right, but not the obligation, to report the matter to law enforcement;
- The District's complaint and investigation procedures established pursuant to this procedure;
- Potential interim measures, such as no-contact directives, housing changes, and academic schedule changes, where applicable;
- The importance of preserving evidence;
- A request for the student to meet with the Title IX coordinator or other designated employee to discuss options for responding to the report; and
- The manner in which the District responds to reports of sexual harassment and a description of potential disciplinary consequences.

The District shall consider and respond to requests for accommodations relating to prior incidents of student sexual harassment that could contribute to a hostile educational environment or otherwise interfere with a student's access to education where both individuals are, at the time of the request, subject to the District's policies.

### Complaints

A Complaint is a written or verbal statement filed with the District that alleges harassment, discrimination, or retaliation in violation of the District's Board Policies, Administrative Procedures, or in violation of state or federal law. Complaints must be filed with the Dean, Human Resources unless the Party submitting the Complaint alleges discrimination, harassment, or retaliation against the responsible district officer, in which case it should be submitted directly to the Superintendent/President.

The District may request, but shall not require the Complainant to submit a Complaint on the form prescribed by the Chancellor of the California Community Colleges. A copy of the form will be available at the District's Human Resources website. A Complainant shall report a verbal Complaint to the Dean, Human Resources. The Dean, Human Resources shall record the verbal Complaint in writing. The Dean, Human Resources will take steps to ensure the writing accurately reflects the facts alleged by the Complainant.

A Complaint must meet each of the following criteria:

- It must allege facts with enough specificity to show that the allegations, if true, would constitute a violation of District policies or procedures or state or federal law prohibiting discrimination, harassment, or retaliation;

- The Complainant must file any Complaint not involving employment within one year of the date of the alleged discriminatory, harassing, or retaliatory conduct or within one year of the date on which the Complainant knew or should have known of the facts underlying the allegations of discrimination, harassment, or retaliation; and
- The Complainant must file any Complaint alleging discrimination, harassment, or retaliation in employment within 180 days of the date of the alleged discriminatory, harassing, or retaliatory conduct, except that this period shall be extended by no more than 90 days following the expiration of the 180 days if the Complainant first obtained knowledge of the facts of the alleged violation after the expiration of the 180 days.

If the Complaint does not meet the requirements set forth above, the Dean, Human Resources will notify the Complainant within 14 days that the complaint does not contain allegations of unlawful discrimination that are sufficient under this procedure to trigger an investigation. The Dean, Human Resources will specify why the complaint is defective.

If the defect is based on the Complainant's failure to state sufficient facts to support a claim of unlawful discrimination, the Dean, Human Resources shall offer the Complainant an opportunity to proffer additional facts to support his/her/their claims through an intake interview, which shall be scheduled as soon as reasonably convenient for the Complainant and the Dean, Human Resources or designee.

If, after the intake interview, the Dean, Human Resources determines that the Complainant has still not stated sufficient facts to support a claim of unlawful discrimination, the Dean, Human Resources shall provide the Complainant with a written determination explaining the basis for dismissing the complaint within 14 days of the intake interview. The Dean, Human Resources must also notify the Complainant of his/her/their right to appeal this determination directly to the Chancellor of the California Community Colleges within 30 days from the date of the notice of dismissal.

Oversight of Complaint Procedure: The Dean, Human Resources is the "responsible District officer" charged with receiving complaints of discrimination or harassment and coordinating their investigation.

The investigation of complaints must be assigned by the Dean, Human Resources to a neutral investigator. A neutral investigator means an outside investigator or an internal investigator who is not in the chain of command of the respondent, not substantially implicated by the allegations in the complaint, and who is otherwise impartial. Neutral investigators must be properly trained to conduct such investigations.

Who May File a Complaint: Any student, employee, parent of a minor, or an individual with legal authority on behalf of a student or employee who believes the student or employee has been discriminated against or harassed by a

student, employee, or third party in violation of this procedure and the related policy.

Where to File a Complaint: A student, employee, parent of a minor, or an individual with legal authority on behalf of a student or employee who believes the student or employee has been discriminated against or harassed in violation of these policy and procedures may make a Complaint orally or in writing directed to the Dean, Human Resources. Complainants may but are not required to use the form prescribed by the Chancellor of the California Community Colleges. These forms are available from the Dean, Human Resources and at the California Community Colleges Chancellor's Office website.

#### Advisers in Student Harassment Complaints

Student Parties in Complaints involving sexual harassment are permitted to have a support person or adviser accompany him/her/them during any stage of the Complaint process described in this procedure. Student Parties in Complaints involving sexual harassment have the right to consult with an attorney, at his/her/their own expense, at any stage of the Complaint process if he/she/they wish to do so. An attorney may serve as a support person or adviser.

#### Employment-Related Complaints

Complainants filing employment-related complaints shall be notified that they may file employment discrimination complaints with the U.S. Equal Employment Opportunity Commission (EEOC) or the California Civil Rights Department (CRD).

Any District employee who receives a harassment or discrimination complaint shall notify the Dean, Human Resources immediately.

Filing a Timely Complaint: Since failure to report harassment and discrimination impedes the District's ability to stop the behavior, the District strongly encourages anyone who believes they are being harassed or discriminated against, to file a Complaint. The District also strongly encourages the filing of such complaints within 30 days of the alleged incident. While all complaints are taken seriously and will be investigated promptly, delay in filing impedes the District's ability to investigate and remediate.

All supervisors and managers have a mandatory duty to report incidents of harassment and discrimination, the existence of a hostile, offensive, or intimidating work environment, and acts of retaliation.

The District will investigate complaints involving acts that occur off campus if they are related to an academic or work activity or if the harassing conduct interferes with or limits a student's or employee's ability to participate in or benefit from the school's programs or activities.

Communicating that the Conduct is Unwelcome: The District further encourages students and staff to let the offending person know immediately and firmly that the conduct or behavior is unwelcome, offensive, in poor taste, or inappropriate.

Intake and Processing of the Complaint: Upon receiving notification of a harassment or discrimination complaint, the Dean, Human Resources shall:

- Consider whether the District can undertake efforts to informally resolve the charges, including but not limited to mediation, rearrangement of work/academic schedules, obtaining apologies, providing informal counseling, training, etc.
- Advise all Parties that he/she/they need not participate in an informal resolution of the Complaint, as described above, and they have the right to end the informal resolution process at any time.
- Advise a student Complainant that he/she/they may file a Complaint with the Office for Civil Rights of the U.S. Department of Education and employee Complainants may file a Complaint with the California Civil Rights Department. All Complainants should be advised that they have a right to file a Complaint with local law enforcement, if the act complained of is also a criminal act. The District must investigate even if the Complainant files a Complaint with local law enforcement. In addition, the District should ensure that Complainants are aware of any available resources, such as counseling, health, and mental health services.
- In matters involving student sexual harassment, provide student Parties notice regarding appropriate counseling resources developed and maintained by the District.
- Take interim steps to protect a Complainant from coming into contact with an accused individual, especially if the Complainant is a victim of sexual violence. The Dean, Human Resources should notify the Complainant of his/her/their options to avoid contact with the accused individual and allow students to change academic situations as appropriate. For instance, the District may prohibit the accused individual from having any contact with the Complainant pending the results of the investigation. When taking steps to separate the Complainant and accused individual, the District shall minimize the burden on the Complainant. For example, it is not appropriate to remove Complainants from classes or housing while allowing accused individuals to remain.

Regardless of whether a Complaint has been filed under this procedure, if the District knows, or reasonably should know, about possible sexual harassment involving individuals subject to the District's policies at the time, the District shall promptly investigate to determine whether the alleged conduct more likely than not occurred, or otherwise respond if the District determines that an investigation is not required.

#### Student Complainant Requests for Confidentiality

If a student Complainant requests confidentiality when reporting sexual

harassment, which could preclude a meaningful investigation or potential discipline of the Respondent, or that no investigation or disciplinary action be pursued to address alleged sexual harassment, the District shall take the request seriously, while at the same time considering its responsibility to provide a safe and nondiscriminatory environment for all students, including for the Complainant. The District shall normally grant the request when possible. In determining whether to disclose a Complainant's identity or proceed to an investigation over the objection of the Complainant, the District may consider whether any of the following apply:

- There are multiple or prior reports of sexual misconduct against the Respondent;
- The Respondent reportedly used a weapon, physical restraints, or engaged in battery;
- The Respondent is a faculty or staff member with oversight of students;
- There is a power imbalance between the Complainant and Respondent;
- The Complainant believes that the Complainant will be less safe if the Complainant's name is disclosed or an investigation is conducted; and
- The District is able to conduct a thorough investigation and obtain relevant evidence in the absence of the Complainant's cooperation.

If the District determines that it can honor the student Complainant's request for confidentiality, it shall still take reasonable steps to respond to the Complaint, consistent with the request, to limit the effects of the alleged sexual harassment and prevent its recurrence without initiating formal action against Respondent or revealing the identity of the Complainant. The District shall also take immediate steps to provide for the safety of the Complainant while keeping the Complainant's identity confidential as appropriate. The District shall notify the Complainant that the steps the District will take to respond to the Complaint will be limited by the Complainant's request for confidentiality.

If the District determines that it must disclose the student Complainant's identity to the Respondent or proceed with an investigation, it shall inform the Complainant prior to making this disclosure or initiating the investigation. The District shall also take immediate steps to provide for the safety of the Complainant where appropriate. In the event the Complainant requests that the District inform the Respondent that the Complainant asked the District not to investigate or seek discipline, the District shall honor this request.

### Investigation

The Dean, Human Resources shall:

- Provide notice to student Parties to a sexual harassment complaint that the District is conducting an investigation. The notice shall include the allegations against the Respondent and the alleged District policy violations under review. If new allegations that arise during the course of the District's investigation that could subject either student Party to

new or additional discipline or corrective action, the Dean, Human Resources shall provide a supplemental notice to the student Parties.

- Authorize the investigation of the Complaint, and supervise or conduct a thorough, prompt, and impartial investigation of the Complaint, as set forth below. Where the Parties opt for informal resolution, the designated officer will determine whether further investigation is necessary to ensure resolution of the matter and utilize the investigation process outlined below as appropriate. The investigation will include interviews with the Complainant, the accused, and any other persons who may have relevant knowledge concerning the Complaint. This may include victims of similar conduct.
- Review the factual information gathered through the investigation to determine whether the alleged conduct constitutes harassment, or other unlawful discriminatory conduct, giving consideration to all factual information and the totality of the circumstances, including the nature of the verbal, physical, visual or sexual conduct, and the context in which the alleged incidents occurred.

Investigation of the Complaint: The District shall promptly investigate every Complaint. No claim of workplace or academic harassment or discrimination shall remain unexamined. This includes Complaints involving activities that occur off campus and in connection with all the academic, educational, extracurricular, athletic, and other programs of the District, whether those programs take place in the District's facilities, on a District bus, or at a class or training program sponsored by the District at another location. The District shall promptly investigate complaints of harassment or discrimination that occur off campus if the alleged conduct creates a hostile environment on campus. The District shall notify the Complainant that the District will commence an impartial fact-finding investigation of the allegations contained in the Complaint.

As set forth above, where the Parties opt for an informal resolution, the Dean, Human Resources may limit the scope of the investigation, as appropriate. The District will keep the investigation confidential to the extent possible but cannot guarantee absolute confidentiality because release of some information on a "need-to-know-basis" is essential to a thorough investigation. When determining whether to maintain confidentiality, the District may weigh the request for confidentiality against the following factors: the seriousness of the alleged harassment; the Complainant's age; whether there have been other harassment complaints about the same individual; and the accused individual's rights to receive information about the allegations if the information is maintained by the District as an "education record" under the Family Educational Rights and Privacy Act (FERPA), 20 U.S. Code Section 1232g; 34 Code Federal Regulations Part 99.15. The District will inform the Complainant if it cannot maintain confidentiality.

Investigation Steps: The District will fairly and objectively investigate harassment and discrimination complaints. Employees designated to serve as investigators under this policy shall have adequate training on what

constitutes sexual harassment, including sexual violence, and that they understand how the District's grievance procedures operate. The investigator may not have any real or perceived conflicts of interest and must be able to investigate the allegations impartially using trauma-informed investigation techniques.

The investigation and adjudication of alleged misconduct under this procedure is not an adversarial process between the Complainant, the Respondent, and the witnesses, but rather a process for the District to comply with its obligations under existing law. The Complainant does not have the burden to prove, nor does the Respondent have the burden to disprove, the underlying allegation or allegations of misconduct.

Investigators will use the following steps: interviewing the Complainant; interviewing the accused individual; identifying and interviewing witnesses and evidence identified by each Party; identifying and interviewing any other witnesses, if needed; reminding all individuals interviewed of the District's no-retaliation policy; considering whether any involved person should be removed from the campus pending completion of the investigation; reviewing personnel/academic files of all involved Parties; reach a conclusion as to the allegations and any appropriate disciplinary and remedial action; and see that all recommended action is carried out in a timely fashion. When the District evaluates the Complaint, it shall do so using a preponderance of the evidence standard. Thus, after considering all the evidence it has gathered, the District will decide whether it is more likely than not that discrimination or harassment has occurred. Student Complainants should be aware that any evidence available but not disclosed during the investigation might not be considered at a subsequent hearing, if a hearing is required under this procedure.

Timeline for Completion: The District will undertake its investigation promptly and swiftly as possible. To that end, the investigator shall complete the above steps, and prepare a written report, and the District shall notify the Complainant and Respondent of the outcome within 90 days of the District receiving the Complaint. The District will toll the timeline while the Parties are engaged in good faith efforts at informal resolution.

Cooperation Expected: All employees are expected to cooperate with a District investigation into allegations of harassment or discrimination. Lack of cooperation impedes the ability of the District to investigate thoroughly and respond effectively. However, lack of cooperation by a Complainant or witnesses does not relieve the District of its obligation to investigate. The District will conduct an investigation if it is discovered that harassment is, or may be occurring, with or without the cooperation of the alleged victim and regardless of whether a Complaint is filed. No employee will be retaliated against as a result of lodging a Complaint or participating in any workplace investigation.

#### Written Report

The results of the investigation of a Complaint shall be set forth in a written

report that will include at least all of the following information:

- A description of the circumstances giving rise to the Complaint;
- A description of the procedural steps taken during the investigation, including all individuals contacted and interviewed;
- A summary of the testimony provided by each witness with information relevant to the allegations, including the Complainant;
- An explanation of why an identified potential witness was not interviewed;
- An analysis of relevant data or other evidence collected during the course of the investigation, including a list of relevant documents;
- A specific finding as to whether each factual allegation in the Complaint occurred based on the preponderance of the evidence standard;
- A table of contents if the report exceeds ten pages and
- Any other information deemed appropriate by the District.

#### Confidentiality of the Process

Investigations are best conducted within a confidential climate. Therefore, the District does not reveal information about ongoing investigations except as necessary to fulfill its legal obligations. The District will keep the investigation confidential to the extent possible, but it cannot guarantee absolute confidentiality because release of some information on a “need-to-know-basis” is essential to a thorough investigation and to protect the rights of student and employee Respondents during the investigation process and any ensuing discipline.

#### Evidence of Past Sexual History

An investigator or hearing officer, if required by this procedure, shall not consider the past sexual history of the Complainant or Respondent except in the limited circumstances described below:

- The investigator or hearing officer shall not consider prior or subsequent sexual history between the Complainant and anyone other than the Respondent for any reason unless directly relevant to prove that physical injuries alleged to have been inflicted by the Respondent were inflicted by another individual;
- The investigator or hearing officer shall not consider the existence of a dating relationship or prior or subsequent consensual sexual relations between the Complainant and the Respondent unless the evidence is relevant to how the Parties communicated consent in prior or subsequent consensual sexual relations;
  - Where the investigator or hearing officer allows consideration of evidence about a dating relationship or prior or subsequent consensual sexual relations between the Complainant and the Respondent pursuant to this circumstance, the mere fact that the Complainant and Respondent engaged in other consensual sexual relations with one another is never sufficient, by itself, to establish that the conduct in question was consensual.

Before allowing the consideration of any evidence proffered pursuant to this section, the investigator or hearing officer shall provide a written explanation to the Parties as to why consideration of the evidence is consistent with this procedure.

Administrative Determination

In any case not involving employment discrimination, within 90 days of receiving a Complaint, the district shall complete its investigation and forward a copy or summary of the report, and written notice to the Complainant setting forth all of the following:

- The Superintendent/President's or his/her/their designee's determination as to whether unlawful discrimination occurred with respect to each allegation in the Complaint based on a preponderance of the evidence standard and the basis for that determination including factual findings;
- In the event a discrimination allegation is substantiated, a description of actions taken, if any, to prevent similar acts of unlawful discrimination from occurring in the future;
- The proposed resolution of the Complaint;
- The Complainant's right to appeal to the District's Board of Trustees and the California Community Colleges Chancellor's Office; and
- In matters involving student sexual misconduct, the Respondent's right to appeal to the District's Board of Trustees any disciplinary sanction imposed upon the Respondent.

In any case involving employment discrimination, within 90 days of receiving a Complaint, the District shall complete its investigation and forward a copy or summary of the report and written notice to the Complainant setting forth all the following:

- The Superintendent/President's or his/her/their designee's determination as to whether discrimination occurred with respect to each allegation in the Complaint based on the preponderance of the evidence standard and the basis for that determination including factual findings;
- If a discrimination allegation is substantiated, a description of actions taken, if any, to prevent similar acts of unlawful discrimination from occurring in the future;
- The proposed resolution of the Complaint; and
- The Complainant's right to appeal to the District's Board of Trustees and to file a Complaint with the California Civil Rights Department.

The District shall also provide the Respondent the following:

- The Superintendent/President's or his/her/their designee's determination as to whether unlawful discrimination occurred with

respect to each allegation in the Complaint based on the preponderance of the evidence standard and the basis for that determination including factual findings;

- The proposed resolution of the Complaint, including any disciplinary action against the Respondent; and
- In matters involving student sexual misconduct not subject to Title IX, the Respondent's right to appeal to the District's Board of Trustees any disciplinary sanction imposed upon the Respondent.

The District will toll the timelines described above while the Parties are engaged in good faith efforts at informal resolution.

In matters involving an academic employee placed on involuntary paid administrative leave, the District shall complete its investigation within 90 working days of the administrative leave commencing, unless the period of paid administrative leave is extended by agreement of the employee and District for a period not exceeding 30 additional calendar days.

#### Discipline for Student Sexual Misconduct Not Subject to Title IX

In a Complaint involving student sexual misconduct not subject to Title IX, if a student Respondent is subject to severe disciplinary sanctions, and the credibility of witnesses was central to the investigative findings, the District will provide an opportunity for the student Respondent to cross-examine witnesses indirectly at a live hearing, either in person or by videoconference, conducted by a neutral decision-maker other than the investigator.

In other Complaints involving sexual harassment against a student, the District shall decide whether a hearing is necessary to determine whether any sexual violence more likely than not occurred. In making this decision, the District may consider whether the Parties elected to participate in the investigation and whether each Party had the opportunity to suggest questions to be asked of the other Party and witnesses during the investigation.

The District shall appoint a neutral third party to attend the hearing solely for the purpose of asking any questions to the witnesses. The neutral third party shall not be the student Respondent, the student Respondent's representative, or any individual charged with making a final determination regarding discipline. The student Respondent may submit written questions before and during the cross-examination, including any follow-up questions. Either Party or any witness may request to answer the questions by videoconference from a remote location.

At the hearing, the other Party shall have an opportunity to note an objection to the questions posed. The District may limit such objections to written form, and neither the hearing officer nor the District are obligated to respond, other than to include any objection in the record. The hearing officer shall have the authority and obligation to discard or rephrase any question that the hearing officer deems to be repetitive, irrelevant, or harassing. In making these

determinations, the hearing officer is not bound by, but may take guidance from, the formal rules of evidence.

Generally, the Parties may not introduce evidence, including witness testimony, at the hearing that the Party did not identify during the investigation and that was available at the time of the investigation. However, the hearing officer has discretion to accept for good cause, or exclude, such new evidence offered at the hearing.

The hearing officer shall provide an explanation of the meaning of the preponderance of the evidence standard, and affirm that it shall apply to adjudications under this procedure. The preponderance of the evidence standard is met if the District determines that it is more likely than not that the alleged misconduct occurred, based on the facts available at the time of the decision.

#### Discipline and Corrective Action

If harassment, discrimination, or retaliation occurred in violation of the policy or procedure, the District shall take disciplinary action against the accused and any other remedial action it determines to be appropriate consistent with state and federal law. The action will be prompt, effective, and commensurate with the severity of the offense.

Possible disciplinary sanctions for student Respondents include written or verbal reprimand, required training or counseling, non-academic probation, suspension, and expulsion. Possible disciplinary sanctions for employee Respondents include written or verbal reprimand, required training or counseling, reduction in pay, demotion, suspension, or discharge.

Remedies for the Complainant might include, but are not limited to:

- providing an escort to ensure that the Complainant can move safely between classes and activities;
- ensuring that the Complainant and alleged perpetrator do not attend the same classes or work in the same work area;
- preventing offending third parties from entering campus;
- providing counseling services or a referral to counseling services;
- providing medical services or a referral to medical services;
- providing academic support services, such as tutoring;
- arranging for a student Complainant to re-take a course or withdraw from a class without penalty, including ensuring that any changes do not adversely affect the Complainant's academic record; and
- reviewing any disciplinary actions taken against the Complainant to see if there is a causal connection between the harassment and the misconduct that may have resulted in the Complainant being disciplined.

If the District imposes discipline, the nature of the discipline will not be

communicated to the Complainant. However, the District may disclose information about the sanction imposed on an individual who was found to have engaged in harassment when the sanction directly relates to the Complainant; for example, the District may inform the Complainant that the harasser must stay away from the Complainant.

Disciplinary actions against faculty, staff, and students will conform to all relevant statutes, regulations, personnel policies and procedures, including the provisions of any applicable collective bargaining agreement.

The District shall also take reasonable steps to protect the Complainant from further harassment, or discrimination, address the hostile environment, if one has been created, prevent its recurrence, address its affects, and protect the Complainant and witnesses from retaliation as a result of communicating with the Complaint or assisting in the investigation.

The District will ensure that Complainants and witnesses know how to report any subsequent problems and should follow-up with Complainants to determine whether any retaliation or new incidents of harassment have occurred. The District shall take reasonable steps to ensure the confidentiality of the investigation and to protect the privacy of all Parties to the extent possible without impeding the District's ability to investigate and respond effectively to the Complaint.

If the District cannot take disciplinary action against the accused individual because the Complainant refuses to participate in the investigation, it should pursue other steps to limit the effects of the alleged harassment and prevent its recurrence.

### Appeals

If the District imposes discipline against a student or employee as a result of the findings in its investigation, the student or employee may appeal the decision using the procedure for appealing a disciplinary decision.

If the Complainant is not satisfied with the results of the administrative determination, he/she/they may, within 30 days, submit a written appeal to the Board of Trustees.

In a Complaint involving student sexual misconduct not subject to Title IX, a Respondent who is not satisfied with the results of the administrative determination may submit a written appeal to the District's Board of Trustees within 30 days.

The Board shall review the original Complaint, the investigative report, the administrative decision, and the appeal. The Board shall issue a final District decision in the matter within 45 days after receiving the appeal. A copy of the decision rendered by the Board shall be forwarded to the Complainant and the Respondent. The Complainant shall also be notified of his/her/their right to appeal this decision.

If the Board does not act within 45 days, the administrative determination shall be deemed approved on the 46th day and shall become the final decision of the District in the matter. The District shall promptly notify the Complainant and the Respondent of the Board's action, or if the Board took no action, that the administrative determination is deemed approved.

In any case not involving workplace discrimination, harassment, or retaliation, the Complainant shall have the right to file a written appeal with the California Community Colleges Chancellor's Office within 30 days after the Board issued the final District decision or permitted the administrative decision to become final. Such appeals shall be processed pursuant to the provision of Title 5 Section 59350.

In any case involving employment discrimination, including workplace harassment, the Complainant may, at any time before or after the issuance of the final decision of the District, file a Complaint with the California Civil Rights Department.

In any complaint dismissed pursuant to Title 5 Section 59332, a complainant may file a written appeal with the California Community Colleges Chancellor's Office within 30 days from the date of the notice of dismissal.

#### Remand

The California Community Colleges Chancellor's Office may remand any matter to the District for any of the following reasons: to cure defects in the investigation or in procedural compliance; to consider new evidence not available during the investigation despite the Complainant's due diligence that would substantially impact the outcome of the investigation; or to modify or reverse a decision of the District's Board of Trustees based upon misapplication of an applicable legal standard or an abuse of discretion.

If the California Community Colleges Chancellor's Office remands a matter to the District, the District shall take necessary action and issue a decision after remand within 60 days. In any case not involving employment discrimination, the Complainant may appeal the District's amended determination to the California Community Colleges Chancellor's Office within 30 days by following the appeal procedures above.

#### Extension of Time

A student Complainant or Respondent may request, in writing, an extension of a deadline related to a Complaint during periods of examinations or school closures. The District shall grant a student Party's reasonable request for an extension of a deadline related to a Complaint during periods of examinations or school closures.

If the District is unable to comply with the 90-day deadline, the District may extend the time to respond by up to 45 additional days. An extension may be taken only once without permission from the California Community Colleges

Chancellor's Office, and must be necessary for one of the following reasons:

- a need to interview a party or witness who has been unavailable;
- a need to review or analyze additional evidence, new allegations, or new complaints related to the matter; or
- to prepare and finalize an administrative determination.

The District shall send a written notice to the Complainant and to a Respondent who is aware of an investigation indicating the necessity of an extension, the justification for the extension, and the number of days the deadline will be extended. The District shall send this notice no later than 10 days prior to the initial time to respond.

The District may request additional extensions from the California Community Colleges Chancellor's Office after the initial 45-day extension. The District shall send a copy of the extension request to the Complainant and to a Respondent who is aware of an investigation. The Complainant and Respondent may each file a written objection with the California Community Colleges Chancellor's Office within 5 days of receipt.

The extension of time provisions described above do not apply to investigations involving an academic employee placed on involuntary paid administrative leave.

Disclosures to the California Community Colleges Chancellor's Office  
Upon request of the California Community Colleges Chancellor's Office, the District shall provide copies of all documents related to a discrimination Complaint, including the following: the original Complaint, any investigative report unless subject to the attorney-client privilege, the written notice to the Complainant setting forth the results of the investigation, the final administrative decision rendered by the Board or a statement indicating the date upon which the decision became final, and a copy of the notification to the Complainant of his/her/their appeal rights, the Complainant's appeal of the District's administrative determination, any other non-privileged documents or information the Chancellor requests.

The District shall provide to the California Community Colleges Chancellor's Office an annual report with the following information: the number of employment and non-employment discrimination complaints and informal charges received in the previous academic year; the number of complaints and informal charges resolved in the previous academic year; the number of complaints of unlawful discrimination received in the previous academic year, and the number of those complaints that were sustained in whole or in part; and any other information requested by the Chancellor.

#### Interim and Supportive Measures

Interim measures are individualized services offered as appropriate to either or both the Complainant and Respondent in an alleged incident of sexual misconduct, prior to an investigation or while an investigation is pending.

Supportive measures are non-disciplinary, non-punitive individualized services offered free of charge to the Complainant or the Respondent regardless of whether a Complaint has been filed.

The District will provide interim or supportive measures to Parties as appropriate and as reasonably available.

Interim and supportive measures may include changes to academic, living, transportation, and working situation or protective measures such as counseling, extensions of deadlines, other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the Parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

#### No-Contact Directives

When requested by a Complainant or otherwise determined to be appropriate, the District shall issue an interim no-contact directive prohibiting the Respondent from contacting the Complainant during the pendency of the investigation. The District shall not issue an interim mutual no-contact directive automatically, but instead shall consider the specific circumstances of each case to determine whether a mutual no-contact directive is necessary or justifiable to protect the noncomplaining party's safety or well-being, or to respond to interference with an investigation. If the District issues a no-contact directive after making decision of responsibility, the no-contract directive shall be unilateral and only apply against the Party found responsible.

Upon the issuance of a mutual no-contact directive, the District shall provide the Parties with a written justification for the directive and an explanation of the terms of the directive. Upon the issuance of any no-contact directive, the District shall provide the Parties with an explanation of the terms of the directive, including the circumstances, if any, under which violation could be subject to disciplinary action.

#### File Retention

The District will retain on file for a period of at least five years after closing the case copies of:

- the original Complaint;
- the investigatory report;
- the summary of the report if one is prepared;
- the notice provided to the Parties of the District's administrative determination and the right to appeal;
- any appeal; and
- the District's final decision.

For any appeal to the California Community Colleges Chancellor's Office, the

district shall provide all relevant, non-privileged documents upon request of the California Community Colleges Chancellor's Office.

#### Dissemination of Policy and Procedures

District policy and procedures related to harassment will include information that specifically addresses sexual violence. District policy and procedures will be provided to all students, all employees, all volunteers who will regularly interact with students, and each individual or entity under contract with the District to perform any service involving regular interaction with students at the District. District policy and procedures related to harassment will also be posted on campus and on the District's website.

When hired, employees are required to sign that they have received the policy and procedures, and the signed acknowledgment of receipt is placed in each employee's personnel file. In addition, these policies and procedures are incorporated into the District's course catalogs and orientation materials for new students.

#### Training

By January 1, 2021, the District shall provide at least two hours of classroom or other effective interactive training and education regarding sexual harassment to all supervisory employees and at least one hour of classroom or other effective interactive training and education regarding sexual harassment to all nonsupervisory employees. All new employees must be provided with the training and education within six months of their assumption of his/her/their position. After January 1, 2021, the District shall provide sexual harassment training and education to each employee once every two years. An employee who received this training and education in 2019 is not required to have refresher training until after two years thereafter.

The training and education required by this procedure shall include information and practical guidance regarding the federal and state statutory provisions concerning the prohibition against and the prevention and correction of sexual harassment and the remedies available to victims of sexual harassment in employment, a review of "abusive conduct," and harassment based on gender identity, gender expression, and sexual orientation. The training and education shall also include practical examples aimed at instructing supervisors in the prevention of harassment, discrimination, and retaliation, and shall be presented by trainers or educators with knowledge and expertise in the prevention of harassment, discrimination, and retaliation. Supervisor's harassment training must also address potential exposure and liability for employers and individuals, supervisor's obligation to report sexual harassment, discrimination, and retaliation when they become aware of it, and appropriate remedial measures to correct harassing behavior. Training for responsible employees must also address the responsible employee's obligation to report sexual harassment and instruction on how to report sexual harassment to the responsible District officer.

The District will also provide comprehensive, trauma-informed training to each employee involved in the District's sexual harassment or discrimination grievance procedure including investigating and adjudicating complaints involving sexual violence, sexual assault, domestic violence, dating violence, and stalking. This training shall include information on trauma-informed investigatory and hearing practices that help ensure an impartial and equitable process, best practices for assessment of a sexual harassment or sexual violence complaint, best practices for questioning of the complainant, respondent, and witnesses, and implicit bias and racial inequities, both broadly and in school disciplinary processes. Materials for this training shall include statistics on the prevalence of sexual harassment and sexual violence in the educational setting, and the differing rates at which students experience sexual harassment and sexual assault in the educational setting based on their race, sexual orientation, disability, gender, and gender identity.

The District will maintain appropriate records of the training provided, including the names of the supervisory employees trained, the date of training, sign in sheets, copies of all certificates of attendance or completion issued, the type of training provided, a copy of all written or recorded training materials, and the name of the training provider. If the training is provided by webinar, the District will maintain a copy of the webinar, all written materials used by the training and all written questions submitted during the webinar, and document all written response or guidance the trainer provided during the webinar. The District will retain these records for at least two years.

The District will also provide training to students who lead student organizations. The District should provide copies of the sexual harassment policies and training to all District law enforcement unit employees regarding the grievance procedures and any other procedures used for investigating reports of sexual violence.

In years in which a substantive policy or procedural change has occurred, all District employees will attend a training update or receive a copy of the revised policies and procedures.

Participants in training programs will be required to sign a statement that they have either understood the policies and procedures, their responsibilities, and their own and the District's potential liability, or that they did not understand the policy and desire further training.

#### Education and Prevention for Students

In order to take proactive measures to prevent sexual harassment and violence toward students, the District will provide preventive education programs and make victim resources, including comprehensive victim services, available. The District will include such programs in their orientation programs for new students, and in training for student athletes and coaches. These programs will include discussion of what constitutes sexual harassment and sexual violence, the District's policies and disciplinary

procedures, and the consequences of violating these policies. A training program or informational services will be made available to all students at least once annually.

The education programs will also include information aimed at encouraging students to report incidents of sexual violence to the appropriate District and law enforcement authorities. Since victims or third parties may be deterred from reporting incidents if alcohol, drugs, or other violations of District or campus rules were involved, the District will inform students that the primary concern is for student safety and that use of alcohol or drugs never makes the victim at fault for sexual violence. An individual who participates as a Complainant or witness in an investigation of sexual assault, domestic violence, dating violence, or stalking will not be subject to disciplinary sanctions for a violation of the District's student conduct policy at or near the time of the incident, unless the District determines that the violation was egregious, including, but not limited to, an action that places the health or safety of any other person at risk or involves plagiarism, cheating, or academic dishonesty.

#### **Complaint Reporting**

The Superintendent/President shall provide the Board of Trustees, upon request, a report of complaints filed pursuant to this procedure. This report must disaggregate the Complaints by complaint type (Student Complainant and Student Respondent, Student Complainant and Employee Respondent, Employee Complainant and Student Respondent, Employee Respondent and Employee Respondent, etc.). This report must also disaggregate the Complaints by the Complainant's race, age, gender, religion, or any other characteristic identified by the Board.

References: Education Code Sections 212.5, 231.5, 66281.5, 66281.8, 67386, and 87623; Government Code Section 12950.1; Title 5 Sections 59320, 59324, 59326, 59328, and 59300 et seq.; Title 2 Sections 11023 and 11024

Adopted: November 7, 2019  
Revised:

<b>BP/AP APPROVAL PROCESS</b>		
<b>Author</b>	<b>30-Day</b>	<b>Board</b>
Bratsch; Human Resources	9/22/23	n/a



# Unlawful Discrimination Complaint Form

Name: \_\_\_\_\_  
Last First

Address: \_\_\_\_\_  
Street or P.O. Box City State Zip

Phone: Day (\_\_\_\_) \_\_\_\_\_ Evening (\_\_\_\_) \_\_\_\_\_

I Am A:  Student  Employee  Other: \_\_\_\_\_

I Wish to Complain against (name): \_\_\_\_\_

District: \_\_\_\_\_

Date of Most Recent Incident of Alleged Discrimination: \_\_\_\_\_

*(Non-employment complaints must be filed within one year of the date of the alleged unlawful discrimination.  
Employment complaints must be filed within 180 days of the date of the alleged unlawful discrimination.)*

I Allege Discrimination Based on the Following Category Protected under Title 5 (you must select at least one):

- Age  Ethnic Group Identification  National Origin  Medical Condition
- Ancestry  Genetic Information  Physical Disability  Retaliation\*\*
- Color  Mental Disability  Marital Status  Veteran/Military Status
- Race  Sexual Orientation  Religion  Gender Identity/Expression
- Sex/Gender  Perceived to be in protected category or associated with those in protected category

Clearly state your complaint. Describe each incident of alleged discrimination separately. For each incident provide the following information: 1) date(s) the discriminatory action occurred; 2) name of individual(s) who discriminated; 3) what happened; 4) witnesses (if any); and 5) why you believe the discrimination was because of your religion, age, race, sex or whatever basis you indicated above. \*\*If applicable, explain why you believe you were retaliated against for filing a complaint or asserting your right to be free from discrimination on any of the above grounds. (Attach additional pages as necessary.)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

What would you like the District to do as a result of your complaint -- what remedy are you seeking?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I certify that this information is correct to the best of my knowledge.

\_\_\_\_\_  
Signature of Complainant Date

Send Original to the District or: Chancellor's Office, California Community Colleges  
1102 Q Street, Sacramento, California 95811  
Attention: Legal Affairs Division

SEXUAL ASSAULTS ON CAMPUS:

These written procedures and protocols are designed to ensure victims of sexual assault receive treatment and information. (For physical assaults/violence, see also AP 3500, 3510, and 3515.)

- A. Definition: Any sexual assault or physical abuse, including, but not limited to, rape, domestic violence, sexual assault, or stalking, as defined by California law, whether committed by an employee, student, or member of the public occurring on district property, in connection with all the academic, educational, extracurricular, athletic, and other programs of the District, whether those programs take place in the district's facilities or at another location, or on an off-campus site or facility maintained by the District, or on grounds or facilities maintained by a student organization, is a violation of District policies and regulations, and is subject to all applicable punishment, including criminal procedures and employee or student discipline procedures. (See also **AP 3433 Prohibition of Sexual Harassment under Title IX, AP 3434 Responding to Harassment Based on Sex under Title IX, and AP 5500 – Standards of Student Conduct.**)

“Sexual assault” includes but is not limited to, rape, forced sodomy, forced oral copulation, rape by a foreign object, sexual battery, or threat of sexual assault.

“Dating violence” means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of a romantic or intimate relationship will be determined based on the length of the relationship, the type of relationship and the frequency of interaction between the persons involved in the relationship.

“Domestic violence” includes felony or misdemeanor crimes of violence committed by:

- a current or former spouse of the victim;
- a person with whom the victim shares a child in common;
- a person who is cohabitating with or has cohabitated with the victim as a spouse;
- a person similarly situated to a spouse of the victim under California law; or

- any other person against an adult or youth victim who is protected from that person's acts under California law.

"Stalking" means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or to suffer substantial emotional distress.

It is the responsibility of each person involved in sexual activity to ensure that they have the affirmative consent of the other or others to engage in the sexual activity. Lack of protest or resistance does not mean consent, nor does silence mean consent. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of consent.

"Affirmative consent" means affirmative, conscious, and voluntary agreement to engage in sexual activity.

These written procedures and protocols are designed to ensure victims of domestic violence, dating violence, sexual assault, or stalking receive treatment and information. (For physical assaults/violence, see also AP 3500, 3510, and 3515).

All students, faculty members or staff members who allege they are the victims of domestic violence, dating violence, sexual assault or stalking on District property shall be provided with information regarding options and assistance available to them. Information shall be available from the District Police and the Title IX Officer, which shall maintain the identity and other information about alleged sexual assault victims as confidential unless and until the Chief, District Police or the Title IX Officer is authorized to release such information.

- B. Information to be Made Available to Alleged Victims: All students, faculty members, or staff members who allege they are the victims of a sexual assault on District property shall be provided with information regarding options and assistance available to them. Information shall be available from the Chief of District Police, or designee, which shall maintain the identity and other information about alleged sexual assault victims as confidential unless and until the Chief of District Police, or designee, is authorized to release such information.

The Chief of District Police, the Title IX Officer, or designee, shall provide all alleged victims of sexual assault, domestic violence, dating violence, or stalking with the following:

1. a copy of the District's policy and procedure regarding sexual assault, domestic violence, dating violence, or stalking;
2. a list of personnel on campus who should be notified and procedures for such

notification, if the alleged victim consents;

3. information about the importance of preserving evidence and the identification and location of witnesses;
4. a description of available services, and the persons on campus available to provide those services if requested (services and those responsible for providing or arranging them may include: Health Center, Human Resources, and District Police);
5. transportation to a hospital, if necessary;
6. counseling by a Health Services provider in the Health Center or referral to a counseling center;
7. Notice to the police, if desired;
8. assistance in notifying police, if desired;
9. a list of other available campus resources or appropriate off-campus resources;
10. information about the participation of victim advocates and other supporting people;
11. the rights of victims and the institution's responsibilities regarding orders of protection, no contact orders, or similar lawful orders issued by a court;
12. a description of each of the following ~~procedures~~ **options**:
  - a. **counselors and support services for victims**;
  - b. criminal prosecution;
  - c. civil prosecution (i.e., lawsuit);
  - d. District disciplinary procedures, both student and employee;
  - e. modification of class schedules;
  - f. tutoring, if necessary;
  - g. **alternative dispute resolution or other accountability processes**;
  - h. **alternative housing assignments**;
  - i. **academic assistance alternatives**.

C. **Confidentiality**: All alleged victims of sexual assault, domestic violence, dating violence, or stalking on District property shall be kept informed, through the Chief of District Police, the Title IX Officer, or designee, of any ongoing investigation. Information shall include the status of any student or employee disciplinary proceedings or appeal; alleged victims of sexual assault, domestic violence, dating violence or stalking are required to maintain any such information in confidence, unless the alleged assailant has waived rights to confidentiality.

The District shall maintain the identity of any alleged victim or witness of sexual assault on District property, as defined above, in confidence unless the alleged victim or witness specifically waives that right to confidentiality. All inquiries from reporters or other media representatives about alleged sexual assaults on District property shall be referred to the Superintendent/President, or designee, which shall work with the Chief of District Police, the Title IX Officer, or designee, to assure that all confidentiality rights are maintained.

The Chief of District Police should be available to provide assistance to District law enforcement unit employees regarding how to respond appropriately to reports of sexual violence.

The District will investigate all complaints alleging sexual assault under the procedures for sexual harassment investigations described in AP 3435, regardless of whether a complaint is filed with local law enforcement.

A complainant or witness who participates in an investigation of sexual assault, domestic violence, dating violence, or stalking will not be subject to disciplinary sanctions for a violation of the District's student conduct policy at or near the time of the incident, unless the District determines that the violation was egregious, including but not limited to, an action that places the health or safety of any other person at risk or involves plagiarism, cheating, or academic honesty.

In the evaluation of complaints in any disciplinary process, it shall not be a valid excuse to alleged lack of affirmative consent that the accused believed that the complainant consented to the sexual activity under either of the following circumstances:

- The accused's belief in affirmative consent arose from the intoxication or recklessness of the accused.
- The accused did not take reasonable steps, in the circumstances known to the accused at the time, to ascertain whether the complainant affirmatively consented.

In the evaluation of complaints in the disciplinary process, it shall not be a valid excuse that the accused believed that the complainant affirmatively consented to the sexual activity if the accused knew or reasonably should have known that the complainant was unable to consent to the sexual activity under any of the following circumstances:

- The complainant was asleep or unconscious.
- The complainant was incapacitated due to the influence of drugs, alcohol, or medication, so that the complainant could not understand the fact, nature, or extent of the sexual activity.

- The complainant was unable to communicate due to a mental or physical condition.

The District shall maintain the identity of any alleged victim, witness, or third-party reporter of domestic violence, dating violence, sexual assault, or stalking on District property, as defined above, in confidence unless the alleged victim, witness, or third-party reporter specifically waives that right to confidentiality. All inquiries from reporters or other media representatives about alleged domestic violence, dating violence, sexual assaults, or stalking on District property shall be referred to the Superintendent/President, which shall work with the District Police to assure that all confidentiality rights are maintained.

D. Annual Security Report: The Annual Security Report will include a statement regarding the District's programs to prevent sexual assault, domestic violence, dating violence and stalking and procedures that should be followed after an incident of sexual assault, domestic violence, dating violence or stalking has been reported, including a statement of the standard of evidence that will be used during any district proceeding arising from such a report. The statement must include the following:

1. A description of educational programs to promote the awareness of rape, acquaintance rape, and other forcible and non-forcible sex offenses, domestic violence, dating violence or stalking.
2. Procedures to follow if a domestic violence, dating violence, sex offense or stalking occurs, including who should be contacted, the importance of preserving evidence to prove a criminal offense, and to whom the alleged offense should be reported.
3. Information on a student's option to notify appropriate law enforcement authorities, including on-campus and local police, and a statement that campus personnel will assist the student in notifying these authorities, if the student so requests, and the right to decline to notify these authorities.
4. Information about how the District will protect the confidentiality of victims.
5. Information for students about existing on- and off-campus counseling, mental health, victim advocacy, legal assistance, or other student services for victims.
6. Written Notice to victims about options for, and available assistance in, changing academic or working situations, if requested and if such accommodations are reasonably available, regardless of whether the victim chooses to report the crime to District Police or local law enforcement.
7. Procedures for campus disciplinary action in cases of an alleged domestic

violence, dating violence, sexual assault or, stalking, including a clear statement that:

- i. such proceedings shall provide a prompt, fair, and impartial resolution;
  - ii. such proceedings shall be conducted by officials who receive annual training on the issues related to domestic violence, dating violence, sexual assault, and stalking and how to conduct an investigation and a hearing process that protects the safety of victims and promotes accountability;
  - iii. the accuser and the accused are entitled to the same opportunities to have other present during a disciplinary proceeding; and
  - iv. both the accuser and the accused must be informed of the outcome of any institutional disciplinary proceeding resulting from an alleged an alleged domestic violence, dating violence, sexual assault, or stalking, the procedures for the accused and victim to appeal the results of the disciplinary proceeding, of any changes to the results that occurs prior to the time that such results become final, and when such results become final. Compliance with this paragraph does not violate the Family Educational Rights and Privacy Act. For the purposes of this paragraph, the outcome of a disciplinary proceeding means the final determination with respect to the alleged domestic violence, dating violence, sex offense, or stalking and any sanction that is imposed against the accused.
8. A description of the sanctions the campus may impose following a final determination by a campus disciplinary proceeding regarding rape, acquaintance rape, or other forcible or non-forcible sex offenses, domestic violence, dating violence, or stalking.

**E. Sexual Assault and Domestic Violence Counselors**

**Sexual assault and domestic violence counselors shall be independent from the Title IX office, and shall, at a minimum, meet the qualifications defined in Sections 1035.2 and 1037.1 of the Evidence Code, respectively.**

**Services provided by sexual assault and domestic violence counselors, including, but not limited to, securing alternative housing assignments and academic assistance alternatives, shall not be contingent on a victim's decision to report to the Title IX office or law enforcement.**

**A sexual assault or domestic violence counselor shall obtain specific permission from the victim before disclosing the identity of the victim, or any information that could reasonably be expected to reveal the identity of the victim, to the university or any other authority, including law enforcement,**

**unless otherwise required to do so by applicable state or federal law.**

F. Education and Prevention Information: The Chief of District Police, or designee, shall:

1. Provide, as part of the District's established on-campus orientation program, education and prevention information about domestic violence, dating violence, sexual assault, or stalking. The information shall be developed in collaboration with campus-based and community-based victim advocacy organizations and shall include the District's sexual assault policy and prevention strategies including empowerment programming for victim prevention, awareness raising campaigns, primary prevention, bystander intervention, and risk reduction.
2. Post sexual violence prevention and education information on the District's internet website regarding domestic violence, dating violence, sexual assault and stalking.

Reference: Education Code Section 67385; 20 U.S.C. Section 1092(f); 34 C.F.R. Section 668.46(b)(11)

Adopted: May 12, 2009

Revised: July 12, 2021

<b>BP/AP APPROVAL PROCESS</b>		
<b>Author</b>	<b>30-Day</b>	<b>Board</b>
Bratsch; Human Resources	9/22/23	n/a

**NONDISCRIMINATION**

The District is committed to equal opportunity in educational programs, employment, and all access to institutional programs and activities.

The District, and each individual who represents the District, shall provide access to its services, classes, and programs without regard to national origin, religion, age, sex (gender), gender identity, gender expression, race or ethnicity, color, medical condition, genetic information, ancestry, sexual orientation, marital status, physical or mental disability, pregnancy, military or veteran status or because they are perceived to have one or more of the foregoing characteristics, or based on association with a person or group with one or more of these actual or perceived characteristics.

**The District shall not discriminate against a person in hiring, termination, or any term or condition of employment or otherwise penalize a person based upon the person's use of cannabis off the job and away from the workplace unless permitted by California law.**

The Superintendent/President shall establish administrative procedures that ensure all members of the District can present complaints regarding alleged violations of this policy and have their complaints heard in accordance with the Title 5 regulations and those of other agencies that administer state and federal laws regarding nondiscrimination.

No District funds shall ever be used for membership, or for any participation involving financial payment or contribution on behalf of the District or any individual employed by or associated with it in an official capacity, to any private organization whose membership practices are discriminatory on the basis of national origin, religion, age, sex or gender, gender identity, gender expression, race or ethnicity, color, medical condition, genetic information, ancestry, sexual orientation, marital status, physical or mental disability, pregnancy, military or veteran status or because they are perceived to have one or more of the foregoing characteristics, or based on association with a person or group with one or more of these actual or perceived characteristics.

See Administrative Procedure 3410.

References: Educ. Code Sections 66250, et seq., 72010, et seq., 87100 et seq.; Title 5, Sections 53000, et seq., 59300 et seq.; Penal Code Section 422.55; Govt. Code 12926.1, 12940, et seq.; **Labor Code Section**

**1197.5; Title 2 Sections 10500 et. seq.**

Adopted: April 9, 2007  
Revised: April 12, 2021

<b>BP/AP APPROVAL PROCESS</b>		
<b>Author</b>	<b>30-Day</b>	<b>Board</b>
Bratsch; Human Resources	9/22/23	11/13/23; 12/11/23

EQUAL EMPLOYMENT OPPORTUNITY

The Board supports the intent set forth by the California Legislature to assure that effort is made to build a community in which opportunity is equalized, and community colleges foster a climate of acceptance, with the inclusion of faculty and staff from a wide variety of backgrounds. It agrees that diversity in the academic environment fosters cultural awareness, mutual understanding and respect, harmony, and suitable role models for all students. **An equitable and inclusive hiring process is essential to improve diversity, reduce barriers to employment, and allow potential applicants the opportunity to demonstrate that they meet or exceed the minimum qualifications for employment.** The Board therefore commits itself to promote the total realization of equal employment through a continuing equal employment opportunity program. **Equal employment opportunity includes not only a process for equal opportunity in hiring, but also practices and processes that create inclusive, respectful work environments.**

The Superintendent/President shall develop, for review and adoption by the Board, a plan for equal employment opportunity that complies with the Education Code and Title 5 requirements as from time to time modified or clarified by judicial interpretation. **The Superintendent/President shall develop hiring procedures driven by diversity, equity, and inclusion and consistent with the Board’s intent described above.**

Reference: Education Code Sections 87100, et seq., Title 5, Section 53000, et seq.

Adopted: April 9, 2007  
Revised: April 18, 2022

<b>BP/AP APPROVAL PROCESS</b>		
<b>Author</b>	<b>30-Day</b>	<b>Board</b>
Bratsch; Human Resources	9/22/23	11/13/23; 12/11/23