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 Chancellor's Cabinet:  
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**References:** Legally Required

## AP 3435 Discrimination and Harassment Resolution Procedures

*(Replaces current SBCCD AP 3430)*

Board Policy 3430 : *Prohibition of Harassment* prohibits District students, student organizations and employees from engaging in discrimination and harassment on the basis of age, color, creed, religion, disability, marital status, veteran or military status, national origin, race, sex including pregnancy, sexual orientation, gender identity, gender expression, ancestry, ethnic group identification, ethnicity or on the basis of these perceived characteristics, or based on association with a person or group with one or more of these actual or perceived characteristics. This prohibition includes sexual misconduct. Allegations that a student, student organization or employee has violated the *Prohibition of Harassment Policy* or has engaged in related retaliation will be resolved consistent with this procedure.

The Title IX Officer is the Vice Chancellor of Human Resources and Employee Relations and is the responsible District officer charged with coordinating the investigation of complaints of non-employment related discrimination or harassment. Title IX Coordinators (the Vice President of Student Services at each college and the Employee Relations Officer at the District) shall assist the Title IX Officer, ensuring support and assistance to reporting parties and responders is available locally at each District site.

In this process, the person who is the alleged victim of the misconduct is referred to as the reporting party, and the person who is alleged to have violated District policy is referred to as the responding party. See the **Complaint Procedure Checklist** section at the end of this procedure.

When the Title IX Officer (VCHR) or Title IX Coordinator receives information about a possible incident of sex or gender-based discrimination or harassment, he/she will provide the reporting party, if known, with a resource guide and copies of BP 3430: *Prohibition of Harassment* and AP 3435: *Discrimination and Harassment Investigations*. The resource guide contains information about available resources, such as counseling and health services.

When the District does not have control over the alleged harasser because they are not affiliated with the District, the District may offer supportive remedies to the reporting party.

As necessary, the District reserves the right to initiate resolution proceedings without a formal report or participation by the alleged victim of discrimination or harassment.

# ***Intake and Processing of the Complaint or Report***

When the Title IX Officer or Coordinator receives information about a possible policy violation, he/she will determine the most appropriate means for addressing the report or complaint. Options include but are not limited to: (1) with the agreement of the parties, attempting to resolve the report or complaint informally through a form of alternative dispute resolution (e.g., mediation); (2) investigating the report or complaint to determine whether District policy was violated, as described below; or (3) determining that the facts of the complaint or report, even if true, would not constitute a violation of the policy. A full investigation will necessarily be pursued if there is evidence of a pattern of misconduct or a perceived threat of further harm to the community or any of its members, including the presence of predatory behavior, weapons, or violence. Title IX Coordinators will notify the Title IX Officer of each complaint or report and seek consensus on which avenue to pursue in the resolution process.

## ***Timeline***

The District aims to bring all allegations of discrimination or harassment to a resolution within a sixty (60) calendar day time period, which can be extended as necessary for appropriate cause by the Title IX Officer with notice to the parties. The Title IX Officer or designated Title IX Coordinator then engages in a preliminary inquiry that is typically 1-3 days in duration. From there, the allegation can lead to a formal investigation, which usually starts within days of the preliminary inquiry's conclusion. Investigations range from days to weeks, depending on the nature and complexity of allegations, with the District commonly aiming for a 10-14 window to completion. The parties are regularly apprised of the status of the investigation as it unfolds.

Appeals may be requested following the findings of a formal investigation, with a three-day window to file appeal requests once a formal determination is reached, a three-day window to grant or deny the appeal request, and another 7-10 days for a final resolution to be reached.

The District's resolution will not typically be altered or precluded on the grounds that civil or criminal charges involving the same incident have been filed or that charges have been dismissed or reduced. However, the District may undertake a short delay (several days to weeks) in its investigation or resolution process to comply with a law enforcement request for cooperation (e.g.: to allow for criminal evidence collection) when criminal charges on the basis of the same behaviors that invoke this process are being investigated. The District will promptly resume its investigation and processes once notified by law enforcement that the initial evidence collection process is complete.

## ***Interim Remedies/Actions***

The Title IX Coordinator/Institutional Equity Officer may provide interim remedies and actions while the case is being resolved, intended to address the short-term effects of harassment, discrimination and/or retaliation, i.e., to redress harm to the reporting party and the community and to prevent further violations.

Interim remedies may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Education to the community
- Altering work arrangements for employees
- Providing campus escorts

- Providing transportation accommodations
- Implementing contact limitations between the parties
- Offering adjustments to academic deadlines, course schedules, etc.

When taking steps to separate the reporting party and the responding party, the District shall minimize the burden on the reporting party. Requests for interim remedies should be made to the Title IX Coordinator/ Institutional Equity Officer, although the Title IX Coordinator/Institutional Equity Officer may also initiate interim remedies outside of a request.

The District may interim suspend<sup>2</sup> a responding party student, employee or student organization pending the resolution of the case, particularly when, in the judgment of the Title IX Coordinator/ Institutional Equity Officer, the safety or well-being of any member(s) of the campus community may be jeopardized by the presence on-campus of the responding party or the ongoing activity of a student organization whose behavior is in question. In all cases in which an interim suspension is imposed, the student, employee or student organization will be given the opportunity to meet with the Title IX Coordinator/Institutional Equity Officer prior to such suspension being imposed, or as soon thereafter as reasonably possible, to show cause why the suspension should not be implemented. The Title IX Coordinator/Institutional Equity Officer has sole discretion to implement or stay an interim suspension under the *Discrimination and Harassment Policy* and *Discrimination and Harassment Resolution Procedures*, and to determine its conditions and duration. Violation of the conditions of an interim suspension under this policy is grounds for expulsion or termination.

During an interim suspension, a student or employee may be denied access to the campus/facilities/events. As determined by the Title IX Coordinator/Institutional Equity Officer, this restriction can include classes and/or all other District activities or privileges for which the individual might otherwise be eligible. At the discretion of the Title IX Coordinator/Institutional Equity Officer, alternative coursework options may be pursued to ensure as minimal an impact as possible on the responding party.

The District will maintain as confidential any interim remedies or actions, provided confidentiality does not impair the District's ability to provide the remedies or actions.

## ***Voluntary Informal Resolution***

In some cases, the Title IX Coordinator/Institutional Equity Officer may recommend that the parties attempt to constructively resolve conflicts with supervision. Various conflict resolution mechanisms are available, including mediation. Mediation is not used when violent behavior is involved, when the Title IX Coordinator/ Institutional Equity Officer determines a situation is not eligible, or when the parties are reluctant to participate in good faith. If informal efforts to resolve conflict are not appropriate or are unsuccessful, the formal investigative process may be initiated. Either party has the right to end the informal process and begin the formal investigative process at any time prior to resolution. Sanctions are not possible as the result of an informal resolution procedure, though the parties may agree to appropriate remedies. The Title IX Coordinator/ Institutional Equity Officer will keep records of any resolution that is reached, and failure to abide by the resolution can result in appropriate responsive actions.

## ***Formal Investigation Process***

When the Title IX Coordinator/Institutional Equity Officer determines, through a preliminary inquiry, that there is reasonable cause to believe that the discrimination and harassment policy has been violated, and determines that voluntary informal resolution is not appropriate or has been unsuccessful, they will initiate an investigation that is thorough, reliable, impartial, prompt and fair. This investigation determines whether the District's policy has been violated based on a preponderance of the evidence standard of proof, e.g. whether the conduct is

more likely than not to have occurred.

The Title IX Officer/Coordinator will appoint a trained investigator to conduct the investigation. Employees designated to serve as investigators under this policy shall have received annual training on the issues related to dating violence, domestic violence, sexual assault and stalking and on the District's complaint procedures. The Title IX Officer/Coordinator may also appoint an external subject matter expert to conduct the investigation and provide a report.

The investigation will entail interviewing all relevant parties and witnesses<sup>3</sup>, obtaining available evidence, reviewing personnel or academic/disciplinary files of involved parties, and identifying sources of expert information, if necessary. All parties will be given the opportunity to provide information and names of possible witnesses relevant to the investigation within a reasonable timeframe prescribed by investigators. The investigators will provide regular updates to both the reporting and responding parties, as appropriate, throughout the investigation.

At the time of the complaint/report, the responding party will be given written notice of the nature of the allegations, the District policies at issue, and the possible sanctions that could result from a determination that policy was violated. The responding party will be provided with copies of BP 3430: *Prohibition of Harassment Policy* and AP 3435: *Discrimination and Harassment Investigations*.

The past sexual history of the parties is not admissible, except as it pertains to sexual interactions between the parties, or as evidence deemed highly relevant by the investigators. While previous conduct violations by the responding party generally have no bearing on the present allegation, District officials may supply information about previous good faith allegations and/or similar findings to the investigators and appeals officers to consider as evidence of pattern and/or predatory conduct.

At any point during the investigation, if it is determined there is no reasonable cause to believe that District policy has been violated, the Title IX Coordinator/Institutional Equity Officer has authority to terminate the investigation and end resolution proceedings.

The investigators will prepare an investigative report detailing the results of the investigation. Each party will be given an opportunity to review the investigative report and submit a written response within a reasonable timeframe specified by investigators. Investigators will then submit the report and any received written responses to the Title IX Coordinator/Institutional Equity Officer along with a recommended finding. The Title IX Coordinator/Institutional Equity Officer will review the factual information gathered through the investigation and will make a finding based on the preponderance of the evidence standard.

When the investigation results in a determination that the policy has been violated, the Title IX Coordinator/Institutional Equity Officer will consult with the hiring authority (for employees) or the disciplinary authority (for students), who must impose discipline in a timely manner.

In those cases that involve potential termination of employment or dismissal of a faculty member for cause, the Director of Human Resources shall be consulted in the sanctioning process.

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 to the extent those agreements do not conflict with federal or state compliance obligations.

In addition to taking disciplinary action against the responding party, the District shall institute any remedial action it determines to be appropriate for the reporting party or the community. Remedies for the reporting party might include, but are not limited to:

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

All parties will receive written notification of the outcome, to the extent permitted by or mandated by law. In cases involving sex or gender-based discrimination or harassment, the written notification includes the findings and rationale for the findings, information on any sanctions imposed by the District, the rationale for the sanctions, and any procedures for appeal. In cases involving sex or gender-based discrimination or harassment, the parties will also receive written notification of any changes to the results that could occur before the decision is finalized, and when it is finalized, such as when subject to grievance procedures, appeal, tenure revocation proceedings, mandatory arbitration, or union proceedings. Written notification letters will be delivered either:

- In person, or
- Mailed to the local address of the respective party as indicated in official District records. If there is no local address on file, mail will be sent to the party's permanent address.

Once received in person, mailed or emailed, a notice will be deemed presumptively delivered.

## **Appeals**

A reporting party or responding party may appeal the decision under the grounds described below. Any party who files a request for appeal must do so in writing to the Title IX Officer, within 3 business days of receiving the written decision.

The ONLY grounds for appeal are as follows:

- A procedural or substantive error occurred that significantly impacted the outcome of the investigation (e.g. substantiated bias, material deviation from established procedures, etc.);
- To consider new evidence, unavailable during the original investigation, that could substantially impact the original finding. A summary of this new evidence and its potential impact must be included;
- The sanctions imposed fall outside the range of sanctions designated for this offense and the cumulative conduct history of the responding party.

The Title IX Officer will share the request for appeal with the other party (e.g., if the responding party files an appeal, the appeal is shared with the reporting party, who may also wish to file a response and/or bring their own appeal on separate grounds; this response or appeal will be shared with the initial appealing party). Based on the written requests/responses or on interviews as necessary, the Title IX Officer will send a letter of outcome for the appeal to all parties. The Title IX Officer can take one of two possible actions: he/she may dismiss an appeal request as untimely or ineligible, or may grant an appeal and remand the finding for further investigation or reconsideration.

The original finding will stand if the appeal request is not timely or substantively eligible, and that decision is final.

If the appeal remands to the investigator/s for review, the reconsideration of the investigator/s is not appealable. In rare cases where a procedural or substantive error cannot be cured by the original investigator/s (as in cases of bias), the Title IX Officer may order a new investigation with a new investigator or team of investigators. The results of the second investigation cannot be appealed.

The procedures governing the hearing of appeals include the following:

- All parties will be timely informed of the status of requests for appeal, the status of the appeal consideration, and the results of the appeal decision;
- Every opportunity to return the appeal to the original investigators for reconsideration (remand) will be pursued;
- Appeals are not intended to be full re-investigations of the allegations. In most cases, appeals are confined to a review of the written documentation or record of the original investigation and pertinent documentation regarding the grounds for appeal;
- Appeal decisions are deferential to the original investigative body, making changes to the finding only where there is clear error;
- An appeal is not an opportunity for the Title IX Officer to substitute his/her judgment for that of the original investigators merely because they disagree with the finding;
- Sanctions imposed are implemented immediately unless the hiring or disciplinary authority, in consultation with the Title IX Officer stays their implementation in extraordinary circumstances, pending the outcome of the appeal;
- The Title IX Officer will typically render a written decision on the appeal to all parties within 5 business days from hearing of the appeal. The Title IX Officer's decision to deny an appeal request is final;
- The parties will receive written notification of any changes made to the original finding and disciplinary action (if any) in a timely, simultaneous fashion.

## ***Advisors***

The parties are entitled to an advisor of their choosing to guide and accompany them throughout the District's resolution process (in all meetings and interviews at which the party is entitled to be present, including intake, interviews, hearings and appeals). The advisor may be anyone who is both eligible and available. An individual who is a witness in a case may not serve as an advisor due to the inherent conflict. A party may also choose to participate in the resolution process without an advisor. Please see additional information about advisors below.

## ***The Role of An Advisor***

Advisors should help their advisees prepare for each meeting, and are expected to advise ethically, with integrity and in good faith. All advisors are subject to the same rules, whether they are attorneys or not. Advisors may not present on behalf of their advisee in a meeting, interview or hearing and should request or wait for a break in the proceeding if they wish to interact with District officials. Advisors may confer quietly with their advisees as necessary, as long as they do not disrupt the process. For longer or more involved discussions, the parties and their advisors should ask for breaks or step out of meetings to allow for private

conversation.

Advisors are expected to refrain from interference with the District investigation and resolution. An advisor who steps out of their role in a meeting under the District resolution process will be warned only once. If the advisor continues to disrupt or otherwise fails to respect the limits of the advisor role, the advisor will be asked to leave the meeting. When an advisor is removed from a meeting, that meeting will typically continue without the advisor present. Subsequently, the Title IX Coordinator will determine whether the advisor may be reinstated, may be replaced by a different advisor, or whether the party will forfeit the right to an advisor for the remainder of the process.

The District expects that the parties will share documentation related to the allegations with their advisors. The parties are not otherwise restricted from discussing and sharing information relating to the allegations with others who may support them or assist them in preparing and presenting. Advisors are expected to maintain the privacy of the records shared with them by the District. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by the District. The District may seek to restrict the role of any advisor who does not respect the sensitive nature of the process or who fails to abide by the District's privacy expectations.

The District expects an advisor to adjust their schedule to allow them to attend District meetings when scheduled. The District does not typically change scheduled meetings to accommodate an advisor's inability to attend. The District will, however make provisions to allow an advisor who cannot attend in person to attend a meeting by telephone, video and/or virtual meeting technologies as may be convenient and available. A party may elect to change advisors during the process.

Where an employee is a member of a union and entitled to a union representative in the process, that employee may be accompanied by the union representative as their advisor or may choose an advisor in addition to their union representative. In such cases, the other party may have two advisors as well. The union representative will be bound by the same role expectations as an advisor.

The parties must advise the investigators of the identity of their advisor at least 2 business days before the date of their first meeting with investigators. The parties must provide subsequent timely notice to the investigators if they change advisors at any time. No audio or video recording of any kind is permitted during meetings with District officials.

## ***Conflicts of Interest***

The District is committed to ensuring that its resolution processes are free from actual or perceived bias or conflicts of interest that would materially impact the outcome. Any party who feels that there is bias or conflict of interest that would materially impact the outcome may submit a written petition for the person's removal from the process. The petition should include specifics as to the actual or perceived bias or conflict of interest, as why the petitioner believes the bias or conflict could materially impact the outcome. Such petitions should be submitted promptly to the Title IX Officer Title IX Coordinator, or to the District Chancellor in the event that the potential conflict or bias involves the Title IX Officer/Coordinator.

## **Retaliation**

It is unlawful for anyone to retaliate against someone who files an unlawful discrimination or harassment complaint, who refers a matter for investigation or complaint, who participates in an investigation of a complaint, who represents or serves as an advisor/union representative for a reporting party or responding party, or who otherwise furthers the principles of the District's unlawful discrimination and harassment policy.

The District shall take reasonable steps to protect the reporting party from further harassment and/or discrimination, and to protect the reporting party and witnesses from retaliation as a result of communicating the complaint and/or assisting in the investigation. Any retaliation should be reported to the Title IX Officer, or in their absence, to the Chancellor.

## ***Privacy and Confidentiality***

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 respond effectively to the report or complaint. Only District officials with a legitimate need to know will be informed of the results of the investigation. The District shall make a good faith effort to inform the parties, in advance when possible, of any public release of information regarding the case.

All employees and students are expected to cooperate with a District investigation into allegations of discrimination or harassment. An individual who participates as a reporting party 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 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.

Only District officials with a legitimate need to know will be informed of the results of the investigation, appeals procedure, or sanctioning/disciplinary procedure.

The parties should be aware that District administrators must issue timely warnings for incidents reported to them that pose a substantial threat of bodily harm or danger to members of the campus community. The District will make every effort to ensure that a reporting party's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

In implementing this policy, records of all reports, resolutions, and hearings will be kept by the Title IX Officer. Access to reports, resolutions and hearings will be controlled by the Title IX Officer.

## **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 or her right to appeal;
- any appeal; and
- the District's final decision.

The District will make such documents available to the State Chancellor upon request.

## ***Rights of the Reporting Party***

- To be treated with respect by District officials.



- To take advantage of campus support resources (such as Counseling and Health Services for students, or EAP services for employees).
- To experience a safe educational and work environment.
- To have an advisor during this procedure.
- To decline to have an allegation resolved through informal conflict resolution procedures.
- To receive amnesty for minor misconduct (such as alcohol or drug violations) ancillary to the incident.
- To be free from retaliation.
- To have reported misconduct resolved in substantial accordance with these procedures.
- To be informed in writing of the outcome/resolution, sanctions where permissible and the rationale for the outcome where permissible.
- Referral to law enforcement and assistance in reporting to law enforcement if desired.
- No contacts orders or restrictions.

## ***Rights of the Responding Party***

- To be treated with respect by District officials.
- To take advantage of campus support resources (such as Counseling and Health Services for students, or EAP services for employees).
- To have an advisor during this procedure.
- To decline to have an allegation resolved through informal conflict resolution procedures.
- To have reported misconduct resolved in substantial accordance with these procedures.
- To be informed of the outcome/resolution and the rationale for the outcome, in writing.

## ***Revisions to this Policy***

The District reserves the right to make changes to this document as necessary and once those changes are posted online, ( [http://www.sbccd.org/Board\\_of\\_Trustees/Policies\\_-\\_a\\_-\\_Procedures](http://www.sbccd.org/Board_of_Trustees/Policies_-_a_-_Procedures) ) they are in effect. Students and employees are encouraged to check online insert URL for the updated versions of all policies and procedures. If government regulations change in a way that impacts this document, this document will be construed to comply with government regulations in their most recent form. Reports of misconduct made after the fact may raise issues of policy and procedure application, if policies and procedures have changed. Procedures applicable are those that are in place at the time of resolution. This document does not create legally enforceable protections beyond the protection of the background state and federal laws.

## **Complaint Procedure Checklist**

- Complaint or report received by Title IX Officer or Title IX Coordinator.
  - Provide complainant with a copy of Board Policy 3430 and Administrative Procedure 3435.
  - Provide complainant with the current resource guide with available resources (counseling, health services, etc.).
  - Acknowledge receipt of complaint/report with copy to State Chancellor's Office
- Conduct preliminary inquiry (within three days) to determine:
  - Acceptability by parties to alternative dispute resolution.
  - Determine whether District policy had been violated.
  - Determine whether facts violated District policy.

- Determine interim remedies or actions to be taken.
- Decide to start a formal investigation or
- Close out complaint with letter of explanation to complainant and State Chancellor's Office
- Determine investigator and timeline (within 60 days of complaint/report)
  - Request extension up to 90 days, from State Chancellor's Office within 50 days of complaint/report
    - Reason why extension is necessary
    - Date expected to complete determination
    - Notice of copy sent to complainant
    - Notice to complainant of right to send written objection to extension with five days of receipt
- Complete investigation
  - Forward investigative report and administrative determination to the complainant and to the State Chancellor's Office
    - Ultimate determination on probable cause
    - Description of actions taken to prevent similar future allegations
    - Proposed resolution
    - The complainant's right to appeal to the District governing board (within 15 days from the date of the determination)
      - Governing board reviews and renders final decision (within 45 days of receiving the appeal)
      - Board decision is forwarded to complainant and the State Chancellor's Office
      - Notice to complainant of right to appeal to the State Chancellor's Office (within 30 days of the Board decision)
      - Complainant provides copy of governing board's determination or evidence that the governing board did not respond within 45 days
- State Chancellor's Office may launch its own investigation if there is evidence of a violation.

## References:

[20 U.S.C. Section 1681 et seq.](#); Education Code [SectionSections 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)

## Attachments:

[AP 3435 Discrimination and Harassment Investigation - Comments](#)  
[AP 3435 Discrimination and Harassment Investigation - Legal Citations](#)  
[AP3435-OLD.pdf](#)  
[SBCCD - Overview for Legal Update 31 Final](#)

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## Approval Signatures

Step Description	Approver	Date
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**Draft saved** by Nikac, Stacey: Administrator

2/2/2018, 3:35PM EST

**Comment** by Nikac, Stacey: Administrator

2/2/2018, 3:38PM EST

NOTE: This procedure is legally required. Local practice may be inserted. The following is an illustrative example.

NOTE: In order to comply with Department of Fair Employment and Housing (“DFEH”) regulations, Districts adopting this policy should also adopt AP 3410 Nondiscrimination and AP 3430 Prohibition on Harassment.

NOTE: DFEH Regulations require any employer whose workforce contains 10 percent or more of persons who speak a language other than English as their spoken language to translate its harassment, discrimination and retaliation policies into every language that is spoken by at least 10 percent of the workforce. In order to comply with this requirement, Districts should translate BP 3410 Nondiscrimination, BP 3430 Prohibition of Harassment, AP 3410 Nondiscrimination, AP 3430 Prohibition on Harassment, and AP 3435 Discrimination and Harassment Complaints and Investigations into any applicable languages.

### 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 may file a formal or informal complaint of harassment, discrimination, or retaliation.

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. An informal complaint is any of the following: (1) An unwritten allegation of harassment, discrimination, or retaliation; (2) a written allegation of harassment, discrimination, or retaliation that falls outside the timelines for a formal complaint; or (3) a written complaint alleging harassment, discrimination, or retaliation filed by an individual who expressly indicates that he/she does not want to file a formal complaint.

### Informal Complaints

Any person may submit an informal complaint to the [ designate position ] or any other District or college administrator. Administrators receiving an informal complaint shall immediately notify the [ designate position ] in writing of all pertinent information and facts alleged in the informal complaint.

Upon receipt of an informal complaint, the [ designate position ] 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 [ designate position ] 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 [ designate position ] determines that the allegation(s), if proven true, would constitute a violation of the District policy prohibiting harassment, discrimination, or retaliation. The [ designate position ] will explain to any individual bringing an informal complaint that the [ designate position ] may decide to initiate an investigation, even if the individual does not wish the [ designate position ] to do so. The [ designate position ] 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

Formal Complaints must be filed with the Chancellor of the California Community Colleges or the [ designate position ] 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 [ CEO ] 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 [ specify location, such as each college student services office, the office of College President, the District human resources department and on college's/district's web sites ].

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 [ designate position ] 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 [ designate position ] will handle the matter as an informal complaint.

Oversight of Complaint Procedure: The [ designate position ] 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 [ insert by whom ] to other staff or to outside persons or organizations under contract with the District. This shall occur whenever the [ designate officer ] is named in the complaint or implicated by the allegations in the complaint.

Who May File a Complaint: Any student, employee, or third party who believes he/she 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, 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.

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 [ designate officer ] and at the California Community Colleges Chancellor's Office website.

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

- the [ designate officer ];
- [ identify others, including the Chief Student Services Officer, Chief Human Resources Officer and CEO ]; or
- the California Community Colleges Chancellor's Office.

#### 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 Department of Fair Employment and Housing (DFEH).

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

Any District employee who receives a harassment or discrimination complaint shall notify the [ designated officer ] 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 [ designate officer ] shall:

- 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 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. NOTE: The OCR September 2017 Interim Guidance now permits mediation in all cases as long as all parties agree. Districts should exercise care in using mediation in cases of sexual violence.
- Advise a student complainant that he/she may file a complaint with the Office of Civil Rights of the U.S. Department of Education and employee complainants 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, 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. The [ designate officer ] 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 a victim of sexual violence. The [ designate officer ] 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 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.

#### Investigation

The [ designate position ] shall:

- Authorize the investigation of the complaint, and supervise 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 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.

As set forth above, where the complainant opts for an informal resolution, the [ designated officer ] 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.

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.

**Cooperation Encouraged:** 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(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:
  - o The determination of the [ CEO or his/her designee ] as to whether there is probable cause to believe discrimination occurred with respect to each allegation in the complaint;
  - o A description of actions taken, if any, to prevent similar problems from occurring in the future;
  - o The proposed resolution of the complaint; and
  - o 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:
  - o The determination of the [ CEO or his/her designee ] as to whether there is probable cause to believe discrimination occurred with respect to each allegation in the complaint;
  - o A description of actions taken, if any, to prevent similar problems from occurring in the future;
  - o The proposed resolution of the complaint; and
  - o 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.

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, 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 and to the California Community Colleges Chancellor's Office. The complainant shall also be notified of his/her right to appeal this decision.

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.

#### 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; and
- the District's final decision.

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

NOTE: The language below is optional language regarding sexual misconduct and includes recommendations from the U.S. Department of Education Office for Civil Rights "Dear Colleague" Letters and the April 2014 "Not Alone" White House Task Force Report to Protect Students From Sexual Assault. The suggested language goes beyond the strict requirements of the law, but complies with suggestions from the OCR's "Dear Colleague Letters" and other sources.

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 [ insert other appropriate school designee ], or whom a student or employee could reasonably 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 [ insert name and contact details, including location of 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 or responsible 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 [ and pastoral 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 [ insert list – health center, victim advocacy office, women's center, etc. ], 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 victims consent. These individuals are limited to [ insert detailed list with contact details ].

**Authority over Parties:**

The District has authority over students, employees, and third parties for alleged violations of this policy that occur on District property. The District has authority over District employees and students for alleged violations of this policy that occur at District activities or events. The District may 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.

**Standard of Proof:**

The District will use a "preponderance of the evidence" standard of proof in determining whether there has been a violation of this policy. This standard of proof is also known as "more likely than not" standard.

**Upon Receiving the Complaint – Health and Safety:**

The Title IX Coordinator, together with [ insert title if the responsibility is shared ], 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 [ insert list, for example – 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 to 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:

NOTE: The OCR September 2017 Interim Guidance now permits mediation in all cases as long as all parties agree. Districts should exercise care in using mediation in cases of sexual violence.

If the District determines that a sexual misconduct complaint is appropriate for informal resolution, it 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, [ insert, 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.

NOTE: This procedure is legally required for Option 1 and Option 2.

#### 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, 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

By January 1, 2006, the District shall provide at least two hours of classroom or other effective interactive training and education regarding sexual harassment to all supervisory employees who are employed as of July 1, 2005. All new supervisory employees must be provided with the training and education within six months of their assumption of a supervisory position. After January 1, 2006, the District shall provide 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 sexual harassment and the remedies available to victims of 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. 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, appropriate remedial measures to correct harassing behavior, and a review of "abusive conduct."

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.

NOTE: The following is suggested as good practice, and will generally be viewed by a court as helping to reduce District liability.

Training of all staff will be conducted. This includes counselors, faculty, health personnel, law enforcement officers, coaches, and all staff who regularly interact with students. Training for academic staff should emphasize environmental harassment in the classroom. 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. If other rules are violated, the District will address such violations separately from an allegation of sexual violence.

**Edited** by Nikac, Stacey: Administrator

2/2/2018, 3:38PM EST

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Changes to be made per Legal Update #31 - See comments for recommended language

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