



College Coordinating Council Meeting

February 8, 2023
 9:30 a.m. – 10:30 a.m.
 L201

Type of Meeting: Regular
Note Taker: Patty McClure, Megan Aceves
Please Review/Bring: Agenda, Minutes

Committee Members:
 Tamira Palmetto-Despain, Academic Senate
 Diana Ferrassoli, ASO
 Pamela Ford, Classified Union
 Greg Bormann Confidential/Management/Supervisory/Administrators
 LaDonna Trimble, Deans
 Dr. Jason Bowen, Faculty Union

Dr. Jennifer Zellet, **CHAIR**
 Shami Brar, Vice President of Administrative Services
 Bridget Cook, General Counsel
 Dr. Howard Davis, Interim Vice President of Academic Affairs
 Victoria Simmons, Interim Vice President of Human Resources
 Dr. Jose Rivera, Interim Vice President of Student Services

MEETING

Items	Person(s) Responsible	Time	Action
STANDING ITEMS:			
I. Approval of Previous Minutes of January 25, 2023	All	1 minute	
II. Constituent Reports	All	4 minutes	
DISCUSSION/ACTION ITEMS:			
I. Calendar Committee – CMSA Representation	Jennifer	2 minutes	
II. AP 2712 – Conflict of Interest Code	Jennifer	5 minutes	Returned from January 11, 2023, constituent review.
III. BP/AP 3420 – Equal Employment Opportunity	Victoria	10 minutes	Returned from January 25 th meeting.
IV. BP/AP 3430 – Prohibition of Harassment	Victoria	10 minutes	Returned from January 25 th meeting.
V. BP/AP 3433 – Prohibition of Sexual Harassment	Victoria	10 minutes	Returned from January 25 th meeting.
VI. AP 3434 – Responding to Harassment	Victoria	10 minutes	Returned from January 25 th meeting.
VII. AP 3435 – Discrimination & Harassment	Vitoria	2 minutes	Returned from January 25 th meeting.

VIII.	BP/AP 5700 – Intercollegiate Athletics	Jose	2 minutes	Returned from January 25 th meeting.
POLICIES OUT FOR CONSTITUENT REVIEW				
BP/AP 2105 – Election of Student Member – Out for Constituent Review on January 25, 2023				
BP 2200 – Board Duties & Responsibilities - Out for Constituent Review on January 25, 2023				
BP/AP 2345 – Public Participation at Board Meetings - Out for Constituent Review on January 25, 2023				
BP/AP 3410 – Nondiscrimination - Out for Constituent Review on January 25, 2023				
POLICIES IN PROCESS				
BP/AP 2510 – Participation in Local Decision Making	Howard			Working with the task force.
Decision Making Principle Document	Jennifer			Meeting with various groups on campus for input.
BP/AP 3720 – Computer Network IT Committee	Shami and IT Committee			
BP/AP 4010 – Academic Calendar	Howard			Waiting for Negotiations.
BP/AP 4100 – Graduation Requirements	Jose			Working on revisions with counseling.
BP/AP 4400 – Community Services	Howard			Working on revisions.
BP/AP 6340 – Bids and Contracts	Shami			
AP 6370 – Contracts for Personal Services	Shami			
BP/AP 7130 - Compensation	Shami & Legal			
BP/AP 7800 – Emeritus Status (NEW)	Jennifer			Working on revisions.
NEXT MEETING DATE: February 22, 2023				



College Coordinating Council Minutes

January 25, 2023
9:30 a.m. – 10:30 a.m.
L201

Type of Meeting: Regular
Note Taker: Patty McClure, Megan Aceves
Please Review/Bring: Agenda, Minutes

Committee Members:
Mark McGovern, Academic Senate
Diana Ferrassoli , ASO - **ABSENT**
Pamela Ford, Classified Union
Greg Bormann Confidential/Management/Supervisory/Administrators
LaDonna Trimble, Deans
Dr. Jason Bowen, Faculty Union

Dr. Jennifer Zellet, **CHAIR**
Shami Brar, Vice President of Administrative Services
Bridget Cook, General Counsel
Dr. Howard Davis, Interim Vice President of Academic Affairs
Victoria Simmons, Interim Vice President of Human Resources
Dr. Jose Rivera, Interim Vice President of Student Services

MINUTES

Items	Person(s) Responsible	Time	Action
STANDING ITEMS:			
I. Approval of Previous Minutes of January 11, 2023	All	1 minute	Jason stated that he would like for Pamela’s comments from the January 11, 2023, meeting to be reflected in the minutes. Pamela had stated that the budget’s reserve continues to increase, while salaries are not. Bridget stated that Pamela’s comments are regarding negotiations and are not proper subjects for CCC. The minutes were approved with the revision and with Greg abstaining.
II. Constituent Reports	All	4 minutes	There were no reports.
DISCUSSION/ACTION ITEMS:			
I. BP 2310 – Regular Meetings of the Board	Jennifer	2 minutes	It was agreed to go forward to the February 13, 2023, Board Meeting.
II. BP/AP 2105 – Election of Student Member	Jennifer	2 minutes	There was some discussion on language surrounding the date of when the Student Trustee would take office and was agreed after a minor revision to go out for constituent review.

III.	BP 2200 – Board Duties & Responsibilities	Jennifer	2 minutes	It was agreed to go out for constituent review.
IV.	BP/AP 2345 Public Participation at Board Meetings	Jennifer	2 minutes	It was agreed to go out for constituent review.
V.	BP/AP 3410 – Nondiscrimination	Victoria	2 minutes	It was agreed to go out for constituent review.
VI.	BP/AP 3420 – Equal Employment Opportunity	Victoria	2 minutes	Ran out of time, will continue review at the next meeting.
VII.	BP/AP 3430 – Prohibition of Harassment	Victoria	2 minutes	Ran out of time, will continue review at the next meeting.
VIII.	BP/AP 3433 – Prohibition of Sexual Harassment	Victoria	2 minutes	Ran out of time, will continue review at the next meeting.
IX.	AP 3434 – Responding to Harassment	Victoria	2 minutes	Ran out of time, will continue review at the next meeting.
X.	AP 3435 – Discrimination & Harassment	Vitoria	2 minutes	Ran out of time, will continue review at the next meeting.
XI.	BP/AP 5700 – Intercollegiate Athletics	Jose	2 minutes	Ran out of time, will continue review at the next meeting.

POLICIES OUT FOR CONSTITUENT REVIEW

AP 2712 – Conflict of Interest Code – Out for Review on January 11, 2023

POLICIES IN PROCESS

BP/AP 2510 – Participation in Local Decision Making	Howard	Working with the task force.
Decision Making Principle Document	Jennifer	Meeting with various groups on campus for input.
BP/AP 3720 – Computer Network IT Committee	Shami and IT Committee	
BP/AP 4010 – Academic Calendar	Howard	Waiting for Negotiations.
BP/AP 4100 – Graduation Requirements	Jose	Working on revisions with counseling.
BP/AP 4400 – Community Services	Howard	Working on revisions.
BP/AP 6340 – Bids and Contracts	Shami	
AP 6370 – Contracts for Personal Services	Shami	
BP/AP 7130 - Compensation	Shami & Legal	
BP/AP 7800 – Emeritus Status (NEW)	Jennifer	Working on revisions.

NEXT MEETING DATE: February 8, 2023

AP 2712 Conflict of Interest Code

References:

Government Code Sections 87103 subdivision (e), 87300-87302, 89501, 89502 and 89503 *Title 2 Section 18730*

Pursuant to Section 18730 of Title 2 of the California Code of Regulations, incorporation by reference of the terms of this regulation along with the designation of employees and the formulation of disclosure categories in Section 13 below constitute the adoption and promulgation of a conflict of interest code within the meaning of Government Code Section 87300 or the amendment of a conflict of interest code within the meaning of Government Code Section 87306 if the terms of this regulation are substituted for terms of a conflict of interest code already in effect. A code so amended or adopted and promulgated requires the reporting of reportable items in a manner substantially equivalent to the requirements of article 2 of chapter 7 of the Political Reform Act, Government Code Sections 81000 et seq. The requirements of a conflict of interest code are in addition to other requirements of the Political Reform Act, such as the general prohibition against conflicts of interest contained in Government Code Section 87100, and to other state or local laws pertaining to conflicts of interest.

Section 1. Definitions

The definitions contained in the Political Reform Act of 1974, regulations of the Fair Political Practices Commission (2 Cal. Code of Regs. sections 18100, et seq.), and any amendments to the Act or regulations, are incorporated by reference into this conflict of interest code.

Section 2. Designated Employees

The persons holding positions listed in Section 13 are designated employees. It has been determined that these persons make or participate in the making of decisions which may foreseeably have a material effect on economic interests.

Section 3. Disclosure Categories

This code does not establish any disclosure obligation for those designated employees who are also specified in Government Code Section 87200 if they are designated in this code in that same capacity or if the geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction in which those persons must report their economic interests pursuant to article 2 of chapter 7 of the Political Reform Act, Government Code Sections 87200 et seq. In addition, this code does not establish any disclosure obligation for any designated employees who are designated in a conflict of interest code for another agency, if all of the following apply:

- (A) The geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction of the other agency;
- (B) The disclosure assigned in the code of the other agency is the same as that required under article 2 of chapter 7 of the Political Reform Act, Government Code Section 87200; and
- (C) The filing officer is the same for both agencies.¹ Such persons are covered by this code for disqualification purposes only. With respect to all other designated employees, the disclosure categories set forth in Section 13 specify which kinds of economic interests are reportable. Such a designated employee shall disclose in his/her statement of economic interests those economic interests he/she/they has which are of the kind described in the disclosure categories to which he/she/they is assigned in Section 13. It has been determined that the economic interests set forth in a designated employee's disclosure categories are the kinds of economic interests which he/she/they foreseeably can affect materially through the conduct of his/ her office.

Section 4. Statements of Economic Interests

Place of Filing. The code reviewing body shall instruct all designated employees within its code to file statements of economic interests with the agency or with the code reviewing body, as provided by the code reviewing body in the agency's conflict of interest code.²

Section 5. Statements of Economic

Interests Time of Filing.

- (A) Initial Statements. All designated employees employed by the agency on the effective date of this code, as originally adopted, promulgated, and approved by the code reviewing body, shall file statements within 30 days after the effective date of this code. Thereafter, each person already in a position when it is designated by an amendment to this code shall file an initial statement within 30 days after the effective date of the amendment.
- (B) Assuming Office Statements. All persons assuming designated positions after the effective date of this code shall file statements within 30 days after assuming the designated positions, or if subject to State Senate confirmation, 30 days after being nominated or appointed.
- (C) Annual Statements. All designated employees shall file statements no later than April

¹ Designated employees who are required to file statements of economic interests under any other agency's conflict of interest code, or under article 2 for a different jurisdiction, may expand their statement of economic interests to cover reportable interests in both jurisdictions, and file copies of this expanded statement with both entities in lieu of filing separate and distinct statements, provided that each copy of such expanded statement filed in place of an original is signed and verified by the designated employee as if it were an original. See Government Code Section 81004.

² See Government Code Section 81010 and Title 2 Section 18115 for the duties of filing officers and persons

in agencies who make and retain copies of statements and forward the originals to the filing officer.

1.

(D) **Leaving Office Statements.** All persons who leave designated positions shall file statements within 30 days after leaving office.

Section 5.5. Statements for Persons Who Resign Prior to Assuming Office

Any person who resigns within 12 months of initial appointment, or within 30 days of the date of notice provided by the filing officer to file an assuming office statement, is not deemed to have assumed office or left office, provided he/she/they did not make or participate in the making of, or use his/her position to influence any decision and did not receive or become entitled to receive any form of payment as a result of his/her appointment. Such persons shall not file either an assuming or leaving office statement.

(A) Any person who resigns a position within 30 days of the date of a notice from the filing officer shall do both of the following:

(1) File a written resignation with the appointing power; and

(2) File a written statement with the filing officer declaring under penalty of perjury that during the period between appointment and resignation he/she/they did not make, participate in the making, or use the position to influence any decision of the agency or receive, or become entitled to receive, any form of payment by virtue of being appointed to the position.

Section 6. Contents of and Period Covered by Statements of Economic Interests:

(A) **Contents of Initial Statements.** Initial statements shall disclose any reportable investments, interests in real property and business positions held on the effective date of the code and income received during the 12 months prior to the effective date of the code.

(B) **Contents of Assuming Office Statements.** Assuming office statements shall disclose any reportable investments, interests in real property and business positions held on the date of assuming office or, if subject to State Senate confirmation or appointment, on the date of nomination, and income received during the 12 months prior to the date of assuming office or the date of being appointed or nominated, respectively.

(C) **Contents of Annual Statements.** Annual statements shall disclose any reportable investments, interests in real property, income and business positions held or received during the previous calendar year provided, however, that the period covered by an employee's first annual statement shall begin on the effective date of the code or the date of assuming office whichever is later.

(D) **Contents of Leaving Office Statements.** Leaving office statements shall disclose reportable investments, interests in real property, income and business positions held or received during the period between the closing date of the last statement filed and the date of leaving office.

Section 7. Manner of Reporting

Statements of economic interests shall be made on forms prescribed by the Fair Political Practices Commission and supplied by the agency, and shall contain the following information:

(A) **Investments and Real Property Disclosure.** When an investment or an interest in real property³ is required to be reported,⁴ the statement shall contain the following:

1. A statement of the nature of the investment or interest;
2. The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged;
3. The address or other precise location of the real property;
4. A statement whether the fair market value of the investment or interest in real property exceeds two thousand dollars (\$2,000), exceeds ten thousand dollars (\$10,000), exceeds one hundred thousand dollars (\$100,000), or exceeds one million dollars (\$1,000,000).

(B) **Personal Income Disclosure.** When personal income is required to be reported,⁵ the statement shall contain:

1. The name and address of each source of income aggregating five hundred dollars (\$500) or more in value, or fifty dollars (\$50) or more in value if the income was a gift, and a general description of the business activity, if any, of each source;
2. A statement whether the aggregate value of income from each source, or in the case of a loan, the highest amount owed to each source, was one thousand dollars (\$1,000) or less, greater than one thousand dollars (\$1,000), greater than ten thousand dollars (\$10,000), or greater than one hundred thousand dollars (\$100,000);
3. A description of the consideration, if any, for which the income was received;
4. In the case of a gift, the name, address and business activity of the donor and any intermediary through which the gift was made; a description of the gift; the amount or value of the gift; and the date on which the gift was received;
5. In the case of a loan, the annual interest rate, and the security, if any, given for the

³ For the purpose of disclosure only (not disqualification), an interest in real property does not include the principal residence of the filer.

⁴ Investments and interests in real property which have a fair market value of less than \$2,000 are not investments and interests in real property within the meaning of the Political Reform Act. However, investments or interests in real property of an individual include those held by the individual's spouse and dependent children as well as a pro rata share of any investment or interest in real property of any business entity or trust in which the individual, spouse and dependent children own, in the aggregate, a direct, indirect or beneficial interest of 10 percent or greater.

⁵ A designated employee's income includes his/ or her community property interest in the income of his/ or her spouse but does not include salary or reimbursement for expenses received from a state, local or federal government agency.

loan and the term of the loan.

(C) **Business Entity Income Disclosure.** When income of a business entity, including income of a sole proprietorship, is required to be reported,⁶ the statement shall contain:

1. The name, address, and a general description of the business activity of the business entity;
2. The name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from such person was equal to or greater than ten thousand dollars (\$10,000).

(D) **Business Position Disclosure.** When business positions are required to be reported, a designated employee shall list the name and address of each business entity in which he/ or she is a director, officer, partner, trustee, employee, or in which he/ or she holds any position of management, a description of the business activity in which the business entity is engaged, and the designated employee's position with the business entity.

(E) **Acquisition or Disposal During Reporting Period.** In the case of an annual or leaving office statement, if an investment or an interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the statement shall contain the date of acquisition or disposal.

Section 8. Prohibition on Receipt of Honoraria

(A) No member of a state board or commission, and no designated employee of a state or local government agency, shall accept any honorarium from any source, if the member or employee would be required to report the receipt of income or gifts from that source on his/ or her statement of economic interests. This section shall not apply to any part-time member of the governing board of any public institution of higher education, unless the member is also an elected official. Subdivisions (a), (b), and (c) of Government Code Section 89501 shall apply to the prohibitions in this section.

This section shall not limit or prohibit payments, advances, or reimbursements for travel and related lodging and subsistence authorized by Government Code Section 89506.

Section 8.1 Prohibition on Receipt of Gifts in Excess of \$470

(A) No member of a state board or commission, and no designated employee of a state

⁶ Income of a business entity is reportable if the direct, indirect or beneficial interest of the filer and the filer's spouse in the business entity aggregates a 10 percent or greater interest. In addition, the disclosure of persons who are clients or customers of a business entity is required only if the clients or customers are within one of the disclosure categories of the filer.

or local government agency, shall accept gifts with a total value of more than \$470 in a calendar year from any single source, if the member or employee would be required to report the receipt of income or gifts from that source on his/her statement of economic interests. This section shall not apply to any part-time member of the governing board of any public institution of higher education, unless the member is also an elected official.

Subdivisions (e), (f), and (g) of Government Code Section 89503 shall apply to the prohibitions in this section.

Section 8.2. Loans to Public Officials

- (A) No elected officer of a state or local government agency shall, from the date of his/ ~~or~~ her election to office through the date that he/ ~~or~~ she vacates office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the elected officer holds office or over which the elected officer's agency has direction and control.
- (B) No public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he/ ~~or~~ she holds office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the public official holds office or over which the public official's agency has direction and control. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.
- (C) No elected officer of a state or local government agency shall, from the date of his/ ~~or~~ election to office through the date that he/ ~~or~~ she vacates office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected officer has been elected or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status.
- (D) No public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he/ ~~or~~ she holds office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected officer has been elected or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official

status. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.

(E) This section shall not apply to the following:

1. Loans made to the campaign committee of an elected officer or candidate for elective office.
2. Loans made by a public official's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such persons, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.
3. Loans from a person which, in the aggregate, do not exceed five hundred dollars (\$500) at any given time.
4. Loans made, or offered in writing, before January 1, 1998.

Section 8.3. Loan Terms

(A) Except as set forth in subdivision (B), no elected officer of a state or local government agency shall, from the date of his/her election to office through the date he/ or she vacates office, receive a

personal loan of five hundred dollars (\$500) or more, except when the loan is in writing and clearly states the terms of the loan, including the parties to the loan agreement, date of the loan, amount of the loan, term of the loan, date or dates when payments shall be due on the loan and the amount of the payments, and the rate of interest paid on the loan.

(B) This section shall not apply to the following types of loans:

1. Loans made to the campaign committee of the elected officer.
2. Loans made to the elected officer by his/ or her spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.
3. Loans made, or offered in writing, before January 1, 1998.

(C) Nothing in this section shall exempt any person from any other provision of Title 9 of the Government Code.

Section 8.4. Personal Loans

(A) Except as set forth in subdivision (B), a personal loan received by any designated

employee shall become a gift to the designated employee for the purposes of this section in the following circumstances:

1. If the loan has a defined date or dates for repayment, when the statute of limitations for filing an action for default has expired.
2. If the loan has no defined date or dates for repayment, when one year has elapsed from the later of the following:
 - a. The date the loan was made.
 - b. The date the last payment of one hundred dollars (\$100) or more was made on the loan.
 - c. The date upon which the debtor has made payments on the loan aggregating to less than two hundred fifty dollars (\$250) during the previous 12 months.

(B) This section shall not apply to the following types of loans:

1. A loan made to the campaign committee of an elected officer or a candidate for elective office.
2. A loan that would otherwise not be a gift as defined in this title.
3. A loan that would otherwise be a gift as set forth under subdivision (A), but on which the creditor has taken reasonable action to collect the balance due.
4. A loan that would otherwise be a gift as set forth under subdivision (A), but on which the creditor, based on reasonable business considerations, has not undertaken collection action. Except in a criminal action, a creditor who claims that a loan is not a gift on the basis of this paragraph has the burden of proving that the decision for not taking collection action was based on reasonable business considerations.
5. A loan made to a debtor who has filed for bankruptcy and the loan is ultimately discharged in bankruptcy.

(C) Nothing in this section shall exempt any person from any other provisions of Title 9 of the Government Code.

Section 9. Disqualification

No designated employee shall make, participate in making, or in any way attempt to use his/her official position to influence the making of any governmental decision which he/ she knows or has reason to know will have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, on the official or a member of his/ or her immediate family or on:

(A) Any business entity in which the designated employee has a direct or indirect investment worth two thousand dollars (\$2,000) or more;

(B) Any real property in which the designated employee has a direct or indirect interest

worth two thousand dollars (\$2,000) or more;

- (C) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating five hundred dollars (\$500) or more in value provided to, received by or promised to the designated employee within 12 months prior to the time when the decision is made;
- (D) Any business entity in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management; or
- (E) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating \$470 or more provided to; received by, or promised to the designated employee within twelve (12) months prior to the time when the decision is made.

Section 9.3. Legally Required Participation

No designated employee shall be prevented from making or participating in the making of any decision to the extent his/her participation is legally required for the decision to be made. The fact that the vote of a designated employee who is on a voting body is needed to break a tie does not make his/ or her participation legally required for purposes of this section.

Section 9.5. Disqualification of State Officers and Employees

In addition to the general disqualification provisions of section 9, no state administrative official shall make, participate in making, or use his/her official position to influence any governmental decision directly relating to any contract where the state administrative official knows or has reason to know that any party to the contract is a person with whom the state administrative official, or any member of his/ or her immediate family has, within 12 months prior to the time when the official action is to be taken:

- (A) Engaged in a business transaction or transactions on terms not available to members of the public, regarding any investment or interest in real property; or
- (B) Engaged in a business transaction or transactions on terms not available to members of the public regarding the rendering of goods or services totaling in value one thousand dollars (\$1,000) or more.

Section 10. Disclosure of Disqualifying Interest

When a designated employee determines that he/ or she should not make a governmental decision because he/ or she has a disqualifying interest in it, the determination not to act may be accompanied by disclosure of the disqualifying interest.

Section 11. Assistance of the Commission and Counsel

Any designated employee who is unsure of his/ or her duties under this code may request assistance from the Fair Political Practices Commission pursuant to Government Code Section 83114 or from the attorney for his/ or her agency, provided that nothing in this section requires the attorney for the agency to issue any formal or informal opinion.

Section 12. Violations

This code has the force and effect of law. Designated employees violating any provision of this code are subject to the administrative, criminal and civil sanctions provided in the Political Reform Act, Government Code Sections 81000 - 91015. In addition, a decision in relation to which a violation of the disqualification provisions of this code or of Government Code Section 87100 or 87450 has occurred may be set aside as void pursuant to Government Code Section 91003.

Section 13. Designated Positions and Disclosure Requirements

Disclosure Categories

Category 1

A designated employee assigned to this category shall disclose:

- a. Interests in real property within the boundaries of the District as well as real property within two miles of the property used or the potential site.
- b. Investments and business positions in business entities and income (including receipt of gifts, loans, and travel payments) from sources of the type that engage in the acquisition or disposal of real property or are engaged in building construction or design for school districts.

Category 2

A designated employee assigned to this category shall disclose investments and business positions in business entities and income from sources which manufacture or sell food items, supplies, books, machinery or equipment of the type utilized by the administrative unit for which the designated employee is Manager, Director, Supervisor, or responsible.

Category 3

A designated employee assigned to this category shall disclose investments and business positions in business entities and income from sources which are contractors or subcontractors engaged in the performance of work or services of the type utilized by the administrative unit for which the designated employee is Manager, Director, Supervisor, or responsible.

Designated Employees

Disclosure Categories

Vice President Academic Affairs	All 1, 2
Vice President Student Services	All 1,2
Vice President Human Resources and Employee Relations	All 1,2
Executive Director of Business Services	
Vice President of Administrative Services	1,2
General Counsel	1,2
Executive Director of Facilities	All 1,2
Executive Director of the Foundation	All 1,2
Executive Director of Information Technology Services	2, 3
Executive Director of Marketing & Public Information	2
Deans	2, 3
Associate Dean	3
Consultants/New Positions	*

*Consultants/new positions are included in the list of designated positions and shall disclose pursuant to the broadest disclosure requirements in this conflict of interest code subject to the following limitation:

The Superintendent/President may determine in writing that a particular consultant/new position, although a “designated position,” is hired to perform a range of duties that are limited in scope and thus not required to fully comply with the disclosure requirements in this section. Such written determination shall include a description of the consultant’s or new position’s duties and, based upon that description, a statement of the extent of disclosure requirements. The Superintendent/President’s determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code.

Officials Who Manage Public Investments

It has been determined that the positions listed below manage public investments and will file a statement of economic interests pursuant to Government Code Section 87200.

- Board of Trustees
- ~~Executive Director of Business Services~~
- Vice President of Administrative Services
- Superintendent/President

An individual holding one of the above listed positions may contact the Fair Political Practices Commission for assistance or written advice regarding their filing obligations if they believe that their position has been incorrectly categorized. The Fair Political Practices Commission makes the final determination whether a position is covered by Government Code Section 87200.

Also see BP 2200 Board Duties and Responsibilities, BP/AP 2710 Conflict of Interest, BP

2715 Code of Ethics/Standards of Practice, BP 2716 Board Political Activity, and BP 2717 Personal Use of Public Resources – Board.

Approved: 7/5/05
Revised: 5/8/06
Revised: 9/10/07
Revised: 6/13/11
Revised: 3/10/14
Revised: 9/12/16
Revised: 2/12/18
Revised: 11/12/19
Revised: 3/13/23

* CCLC Recommended Language

** AVC Recommended Language



BP 3420 Equal Employment Opportunity

References:

Education Code Sections 87100 et seq.
Title 5 Sections 53000 et seq.
ACCJC Accreditation Standard III.A. 12

The Board of Trustees 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. The Board of Trustees therefore commits itself to promote the total realization of equal employment through a continuing equal employment opportunity program.

The Superintendent/President shall develop, for review and adoption by the Board of Trustees, 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.

Also see [AP 3420 Equal Employment Opportunity](#), [BP/AP 3410 Nondiscrimination, BP/AP Prohibition of Harassment](#), [AP 3435 Discrimination and Harassment Complaints and Investigations](#), and [BP/AP 7100 Commitment to Diversity](#).

Adopted: 11/7/05
Revised: 6/13/16
Revised: 5/11/20

* **CCLC Recommended Language**

** **AVC Recommended Language**



AP 3420 Equal Employment Opportunity

References:

Education Code Sections 87100 et seq.;
Title 5 Sections 53000 et seq. and 59300 et seq.
ACCJC Accreditation Standard III.A.12
Government Code Sections 7400 et seq. and 12940 et seq.
~~20 U.S. Code Sections 1681 et seq.;~~

The Equal Employment Opportunity (EEO) Plan ~~shall~~ **should** be a District-wide, written plan that implements the District's EEO program, includes the definitions contained in Title 5 Section 53001 and addresses the following:

- Submission of plans and revisions to the California Community Colleges Chancellor's Office for review ~~and approval~~ as required
- The designation of the District employee or employees who have been delegated responsibility and authority for implementing the Plan and assuring compliance with the requirements of this procedure;
- The procedure for filing complaints and the person with whom such complaints are to be filed;
- A process for notifying all District employees of the provisions of the Plan and the policy statement required;
- A process for ensuring that District employees who are to participate on screening or selection committees 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 workforce diversity, the elimination of bias in hiring decisions, and best practices in serving on a screening or selection committee;
- A process for providing annual written notice to appropriate community-based and professional organizations concerning the District's Plan and the need for assistance from such organizations in identifying qualified applicants for openings within the District;
- **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 subdivision (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;**
- **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;
- ~~• An analysis of the number of persons from “monitored groups”, as defined by Title 5 Section 53001 subdivision (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~~
 - ~~• An analysis of the degree to which monitored groups are underrepresented in comparison to the 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 under-representation is significant;~~
 - The steps the District will take to promote diversity in its work force;
 - Methods for addressing any discrimination that is detected in the District's hiring practices, and;
 - ~~• Additional steps to address any significant under-representation of monitored groups identified in the Plan.~~
 - The Plan shall be a public record.

The District shall make a continuous good faith effort to comply with the requirements of the Plan.

Annual Evaluation

- ~~• 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 Office of Human Resources will annually survey the District's workforce composition and shall monitor applicants for employment on an ongoing basis to evaluate the District's progress in implementing the EEO Plan, to provide data needed for the reports required by the Plan and to determine whether any monitored group is underrepresented.~~
- ~~• The District will annually report to the California Community Colleges Chancellor the results of its annual survey of employees. At least every three (3) years the Plan will be reviewed and, if necessary, revised based on an analysis of the ethnic group identification, gender, and disability composition of existing staff and of those who have applied for employment in each of the following identified job categories. The District will submit an annual report to the California Community Colleges Chancellor's Office of this demographic data. The report shall identify each employee as belonging to one of the following seven job categories:~~
 - o executive/administrative/managerial
 - o faculty and other instructional staff
 - o professional non-faculty
 - o secretarial/clerical
 - o technical and paraprofessional
 - o skilled crafts; and



- o service and maintenance.

~~For purposes of the survey and report, each applicant or employee will be afforded the opportunity to voluntarily identify her/ his gender, ethnic group identification and, if applicable, her/ his disability. Persons may designate as many ethnicities as they identify with, but shall be counted in only one ethnic group for reporting purposes. This information will be kept confidential and will be separated from the applications that are forwarded to the screening/selection committee and hiring administrator(s).~~

~~The District 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:~~

- ~~• 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.~~
- The opportunity for each employee to identify his/her/their gender, ethnicity and, if applicable, disability. This opportunity must allow for a person to designate multiple ethnic groups with which he/she/they identifies. However, the person may only be counted in one group for reporting purposes.
- 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:
 - o 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.

EEO Advisory Committee

The District has established an Equal Employment Opportunity Advisory Committee to assist the District in implementing its EEO Plan. The committee may also assist in promoting an understanding and support of equal opportunity and nondiscrimination policies and procedures. The committee may sponsor events, training, or other activities that promote equal employment opportunity, nondiscrimination, retention and diversity. The committee shall include a diverse membership whenever possible. The committee



will be composed of the EEO Officer, Human Resources Director, two (2) members from the Academic Senate, one administrative council member, two (2) ASO representatives, two (2) classified union representatives, one member of the confidential/management/supervisory unit, one (1) member from the Office of Students with Disabilities, and one (1) member from the faculty union. Ex-officio members shall include the Human Resources Vice President and the EEO Officer, if different from the Human Resources Vice President. The Equal Employment Opportunity Advisory Committee shall hold a minimum of four (4) meetings per fiscal year, with additional meetings if needed to review EEO and diversity efforts, programs, policies, and progress. When appropriate, the advisory committee shall make recommendations to the Board of Trustees, the Superintendent/President, and EEO Officer. The advisory committee shall receive training in all 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 advisory committee in carrying out of the District's EEO Plan.

Employment Procedures

Job Analysis and Validation: The Assistant Superintendent/Vice President, of Human Resources or designee 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.

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.

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.
- 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~~ 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; notice to Employment Development Department; and advertising in area newspapers of general circulation.

Applicant Pools

- The application for employment shall afford each applicant an opportunity to identify himself/ herself/~~themselves~~ voluntarily as to gender, ethnicity and, if applicable, his/ her/~~their~~ disability. This information shall be maintained in confidence and shall be used only for research, validation, monitoring, evaluation of the effectiveness of the Plan, or as authorized by law.
- After the application deadline has passed, the initial applicant pool shall be ~~analyzed to determine whether the projected representation has been achieved for monitored groups shall be recorded and reviewed by the Chief Human Resources Officer or designee. If these projections have not been met, the District shall immediately determine whether the failure to meet the projected representation of monitored groups in the initial pool was due to discriminatory practices. If not, the hiring process may continue to the next level. If, however, the District determines that discriminatory practices caused the under-representation, 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.~~ 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 this analysis reveals adverse impact against any monitored group~~ If the Chief Human Resources Officer 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.

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:

- Hiring procedures will be provided to the California Community Colleges Chancellor’s Office on request.
- All tests conform to generally applicable legal standards for uniformity.



- A reasonable number of candidates are identified for interview.
- Screening and selection committees are developed that are representative of the District community and campus; include a diverse membership when possible; and exclude applicants, ~~or persons listed as references who have written letters of recommendation,~~ or who are family members, cohabitants, or relatives.
- Every screening and selection committee includes an EEO representative trained to monitor conformance with EEO requirements. The Assistant Superintendent/Vice President, ~~of Human Resources~~ 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 records relevant factual reasons stating why a candidate was not hired or was not invited to interview; and monitors the hiring process for adverse impact.
- Selection shall be based solely on the stated job criteria.
- For faculty and administrative positions, candidates shall be required to demonstrate sensitivity to diversity in ways relevant to the specific position.

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:

- review its recruitment procedures;
- consult with counsel to determine whether there are other, additional measures that may be undertaken that are required and/or permitted by law;
- consider various other means of reducing the under-representation which do not involve taking monitored group status into account and implement any such techniques that are feasible;
- If significant under-representation persists:

~~e—~~ **monitor on an on-going basis;**

- o review each locally-established job qualification to determine if it is job related and consistent with business necessity;
- o discontinue the use of any non-job-related local qualification;
- o and continue using job-related local qualifications only if no alternative standard is reasonably available.
- o Consider the implementation of additional measures designed to promote diversity.

Delegation of Authority

The Board of Trustees delegates to the Assistant Superintendent/Vice President, of Human Resources the responsibility for ongoing implementation of the Plan and for providing leadership in supporting the District's equal employment opportunity policies and procedures. The Assistant Superintendent/Vice President, of Human Resources shall also serve as the Equal Employment Opportunity Officer who is responsible for the



day-to-day implementation of the Plan. If a complaint involves the Equal Employment Opportunity Officer, the complaint may be filed with the Superintendent/President.

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 [Assistant Superintendent/Vice President of Human Resources](#). 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.

~~The process for filing a complaint alleging that the equal employment opportunity regulations have been violated is outlined in the EEO Plan. In addition, the District has adopted procedures for complaints alleging unlawful discrimination or harassment. The District's discrimination and sexual harassment complaint procedures are attached to the EEO Plan.~~

~~The District must identify to the public and to the California Community Colleges Chancellor's Office an individual described in Title 5 as the "responsible District officer," responsible for receiving complaints. Informal charges of unlawful discrimination should be brought to the attention of the responsible District officer. The responsible District officer shall oversee the informal resolution process. The actual investigation of complaints may be assigned to other staff or to outside persons or organizations under contract. An outside investigator must be used when the responsible District officer is named in the complaint or implicated by the allegations in the complaint.~~

~~When a person brings charges of unlawful discrimination the officer must:~~

- ~~• Undertake efforts to resolve the charge informally;~~
- ~~• Advise the complainant that he/she need not participate in an informal resolution of the complaint;~~
- ~~• Notify the complainant of the procedures for filing a formal complaint;~~
- ~~• Notify the complainant that he/she may file a complaint with the Office of Civil Rights of the U.S. Department of Education.~~
- ~~• If the complainant, a student or an employee, files a formal complaint, the responsible District officer must also forward a copy of the complaint to the California Community Colleges Chancellor's Office.~~

~~A formal complaint not involving employment, must be processed if it is filed within one (1) year of the date of the alleged unlawful discrimination or within one year of the date on which the complainant knew or should have known of the facts underlying the allegation.~~

~~A formal complaint alleging discrimination in employment must be filed within one hundred eighty (180) days of the date of the alleged unlawful discrimination, unless the complainant first obtained knowledge of the facts of the alleged violation after the expiration of the initial one hundred eighty (180) days.~~



~~The complaint must be filed by someone who alleges that he/she has personally suffered unlawful discrimination, or by someone who has learned about unlawful discrimination in his/her official capacity.~~

~~When a proper complaint is received, the District will begin an impartial fact-finding investigation, and notify the complainant and the California Community Colleges Chancellor's Office that it is doing so.~~

~~When the investigation is done, the results must be set forth in a written report. The written report must include a description of the circumstances giving rise to the complaint, a summary of the testimony of each witness, an analysis of any relevant data or other evidence collected during the investigation, a specific finding as to whether discrimination did or did not occur with respect to each allegation in the complaint, and any other appropriate information.~~

~~In any case that does not involve employment discrimination, the District must provide the California Community Colleges Chancellor's Office with a copy of the investigative report within ninety (90) days from the date the District received the complaint. The District must also provide the complainant with a copy or summary of the investigative report within ninety (90) days from the date the District received the complaint. The California Community Colleges Chancellor's Office and the complainant must also be provided with a written notice setting forth the determination of the Assistant Superintendent/Vice President of Human Resources as to whether discrimination did or did not occur with respect to each allegation in the complaint; a description of action taken, if any, to prevent similar problems from occurring in the future; the proposed resolution of the complaint; and notice of the complainant's right to appeal to the District's Board of Trustees and the California Community Colleges Chancellor's Office.~~

~~In any case that involves employment discrimination, the District must provide the complainant with a copy or summary of the report, and with written notice setting forth the determination of the Assistant Superintendent/Vice President of Human Resources as to whether discrimination did or did not occur with respect to each allegation in the complaint; a description of action 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's Board of Trustees and to file a complaint with the Department of Fair Employment and Housing (DFEH).~~

~~If the complainant is not satisfied with the results of the administrative determination, the complainant must be given the opportunity to submit a written appeal to the Board of Trustees within fifteen (15) days from the date of the notice of the administrative determination. The Board of Trustees must review the original complaint, the investigative report, the administrative determination, and the appeal and must issue a final District decision within forty-five (45) days of receiving the appeal.~~

~~In any case not involving employment discrimination, a copy of the final District decision~~



~~must be promptly forwarded to the complainant and the California Community Colleges Chancellor's Office. The complainant must be notified of his/her right to appeal. In any case involving employment discrimination, a copy of the final District decision must be promptly forwarded to the complainant. The complainant must be notified of his/her right to file a complaint with the DFEH.~~

~~Where the Board does not act within forty-five (45) days the administrative determination must be deemed approved and must become the final District decision. The District shall promptly notify the complainant and in cases not involving employment discrimination, the California Community Colleges Chancellor's Office, that the Board of Trustees took no action and the administrative determination becomes the final District decision. In cases not involving employment discrimination, the complainant must be informed of his/her right to appeal the District's decision to the California Community Colleges Chancellor's Office. In cases involving employment discrimination, the complainant shall be notified of his/her right to file a complaint with the DFEH.~~

~~In cases not involving employment discrimination, the complainant must be given the right to file a written appeal with the California Community Colleges Chancellor's Office within thirty (30) days after the Board of Trustees issues the final District decision, permits the administrative decision to become final or from the date that notice of the District's final decision was provided to the complainant pursuant to Title 5 Section 59338 subdivisions (b) or (d), whichever is later.~~

~~The District should retain and make available the original complaint, and copies of the final decision or a statement indicating the date on which the administrative determination became final, the notice given to complainant, the complainant's appeal of the District's administrative determination, the investigative report and any other information the California Community Colleges Chancellor's Office may require.~~

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, persons with disabilities, and Vietnam-era active military and veterans.~~ No person shall be denied employment because of ethnicity or race, ~~religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, marital status, sexual orientation, veteran or military status, sex or gender, gender identity, age, religion, marital status, disability, sexual orientation, national origin, medical conditions, status as a Vietnam-era active military and veterans, ancestry~~ or political or organizational affiliation.



Dissemination and Revision of the Plan

~~The EEO Plan and subsequent revisions will be distributed to the Board of Trustees, the President, administrators, the Academic Senate President, faculty and classified union presidents, and members of the District Equal Employment Opportunity Advisory Committee. All managers and supervisors shall be given copies of the plan as revised from time to time and any guidelines for implementing the plan. Copies of the plan shall be provided to the Academic Senate and the exclusive representatives of any units of employees. The Plan will be available on the District's website, and when appropriate, may be distributed by e-mail.~~

All managers and supervisors shall be given copies of the plan as revised from time to time and any guidelines for implementing the plan. Copies of the 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 plans shall be reviewed at least every three ~~(3)~~ years and, if necessary, revised and submitted to the California Community Colleges Chancellor's Office within ~~ninety (90)~~ days of the effective date of the revision or amendment(s). If the California Community Colleges Chancellor's Office determines that the District's policies ~~are do~~ not in compliance with Title 5 Sections 59300 et seq., the California Community Colleges Chancellor's Office may require the District to modify its policies.

Accountability and Corrective Action

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

- Recorded, reviewed and reported the data required regarding qualified applicant pools;
- Reviewed and updated, as needed, the Strategies Component of the District's EEO Plan; and
- 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.

Also see BP 3420 Equal Employment Opportunity, BP/AP 3410 Nondiscrimination, [AP 3435 Discrimination and Harassment Complaints and Investigations](#), and BP/AP 7100 Commitment to Diversity.

Approved: 4/14/08
Revised: 5/9/16
Revised: 4/13/20



* CCLC Recommended Language
** AVC Recommended Language



BP 3430 Prohibition of Harassment

References:

Education Code Sections 212.5 44100, 66252 and 66281.5;
Government Code Sections 12923, 12940 and 12950.1;
Civil Code Section 51.9;
Title 2 Sections 10500 et seq.;
Title VII of the Civil Rights Act of 1964, 42 U.S. Code Annotated Section 2000e

All forms of harassment are contrary to basic standards of conduct between individuals. ~~and are prohibited by state and federal law, as well as this policy, and will not be tolerated.~~ **State and federal law and this policy prohibit harassment, and the District will not tolerate harassment.** The District is committed to providing an academic and work environment that respects the dignity of individuals and groups. ~~The District shall be free of sexual harassment and all forms of sexual intimidation and exploitation including acts of sexual violence. It shall also be free of other unlawful harassment,~~ The District shall be free of unlawful harassment including that which is based on any of the following statuses: race, religious creed, color, national origin, **ethnicity**, ancestry, **immigration status**, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, ~~or sexual orientation of any person~~, or military and veteran status, or because he/she/**they** is perceived to have one or more of the foregoing characteristics.

The District seeks to foster an environment in which all employees, students, unpaid interns, and volunteers feel free to report incidents of harassment without fear of retaliation or reprisal. Therefore, the District also strictly prohibits retaliation against any individual for filing a complaint of harassment or for participating in a harassment investigation. Such conduct is illegal and constitutes a violation of this policy. **The District will investigate all allegations of retaliation** ~~All allegations of retaliation will be swiftly and thoroughly investigated.~~ swiftly and thoroughly. If the District determines that **someone has retaliated, retaliation has occurred**, it will take all reasonable steps within its power to stop such conduct. Individuals who engage in retaliatory conduct are subject to disciplinary action, up to and including termination or expulsion.

Any student, employee, unpaid intern, or volunteer who believes that he/she/**they** has been harassed or retaliated against in violation of this policy should immediately report such incidents by following the procedures described in AP 3435 Discrimination and Harassment Complaints and Investigations. **The District requires supervisors to report** ~~Supervisors are mandated to report~~ all incidents of harassment and retaliation that come to their attention.

This policy applies to all aspects of the academic environment, including but not limited to classroom conditions, grades, academic standing, employment opportunities, scholarships, recommendations, disciplinary actions, and participation in any community college activity. In addition, this policy applies to all terms and conditions of employment,

including but not





limited to hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leave of absence, training opportunities and compensation.

To this end the Superintendent/President shall ensure that the institution undertakes education and training activities to counter **harassment discrimination** and to prevent, minimize and/or eliminate any hostile environment that impairs access to equal education opportunity or impacts the terms and conditions of employment.

The Superintendent/President shall establish procedures that define harassment on campus. The Superintendent/President shall further establish procedures for employees, students, unpaid interns, volunteers and other members of the campus community that provide for the investigation and resolution of complaints regarding harassment and discrimination, and procedures ~~for students~~ to resolve complaints of harassment and discrimination. **State and federal law and this policy prohibit All participants are protected from** retaliatory acts by the District, its employees, students, and agents.

The District will publish and publicize this policy and related written procedures (including the procedure for making complaints) This policy and related written procedures including the procedure for making complaints, shall be widely published and publicized to administrators, faculty, staff, students, unpaid interns, and volunteers particularly when they are new to the institution. **The District will make this policy and related written procedures (including the procedure for making complaints) They shall be** available ~~for students, employees, unpaid interns and volunteers~~ in all administrative offices, and **will post them shall be posted** on the District's website.

Employees who violate the policy and procedures may be subject to disciplinary action up to and including termination. Students who violate this policy and related procedures may be subject to disciplinary measures up to and including expulsion. Unpaid interns who violate this policy and related procedures may be subject to disciplinary measures up to and including termination from the internship or other unpaid work experience program.

Also see BP 3430 Prohibition of Harassment, BP/AP 3410 Nondiscrimination, BP/AP 3420 Equal Employment Opportunity, [BP/AP 3433 Prohibition of Sexual Harassment Under Title IX](#), [AP 3434 Responding to Harassment Based on Sex Under Title IX](#), and AP 3435 Discrimination and Harassment Complaints and Investigations.

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Revised: 1/13/20



* CCLC Recommended Language
** AVC Recommended Language



AP 3430 Prohibition of Harassment

References:

Education Code Sections 212.5, 44100 and 66281.5, and 66281.8;
Government Code Sections 12940 and 12923
Civil Code Section 51.9;
Title 2 Sections 10500 et seq.;
~~Title IX, Education Amendments of 1972;~~
Title 5 Sections 59320 et seq.;
Title VII of the Civil Rights Act of 1964
42 U.S. Code Annotated Section 2000e

The District is committed to providing an academic and work environment free of unlawful harassment. This procedure defines sexual harassment and other forms of harassment on campus and sets forth a procedure for the investigation and resolution of complaints of harassment by or against any staff or faculty member or student within the District.

This procedure and the related policy protects students, employees, unpaid interns and volunteers 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, District bus, or at a class or training program sponsored by the District at another location.

Definitions

General Harassment. Harassment based on race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, ~~or~~ sexual orientation of any person, military and veteran status, or the perception that a person has one or more of these characteristics is illegal and violates District policy. Harassment shall be found where a reasonable person with the same characteristics as the victim of the harassing conduct would be adversely affected to a degree that interferes with his/ ~~or~~ her/~~their~~ ability to participate in or to realize the intended benefits of an institutional activity, employment, or resource.

~~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.~~

Gender-based harassment does not necessarily involve conduct that is sexual. Any hostile or offensive conduct based on gender can constitute prohibited harassment if it meets the definition above. For example, repeated derisive comments about a person's



competency to do the job, when based on that person's gender, could constitute gender-based harassment. Harassment comes in many forms, including but not limited to the following conduct that could, depending on the circumstances, meet the definition above, or could contribute to a set of circumstances that meets the definition:

- **Verbal:** Inappropriate or offensive remarks, slurs, jokes or innuendoes based on a person's race, gender, sexual orientation, or other protected status. This may include, but is not limited to, inappropriate comments regarding an individual's body, physical appearance, attire, sexual prowess, marital status or sexual orientation; unwelcome flirting or propositions; demands for sexual favors; verbal abuse, threats or intimidation; or sexist, patronizing or ridiculing statements that convey derogatory attitudes based on gender, race, nationality, sexual orientation or other protected status.
- **Physical:** Inappropriate or offensive touching, assault, or physical interference with free movement. This may include, but is not limited to, kissing, patting, lingering or intimate touches, grabbing, pinching, leering, staring, unnecessarily brushing against or blocking another person, whistling or sexual gestures. It also includes any physical assault or intimidation directed at an individual due to that person's gender, race, national origin, sexual orientation or other protected status. Physical sexual harassment includes acts of sexual violence, such as rape, sexual assault, sexual battery, and sexual coercion. Sexual violence refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's use of drugs or alcohol. An individual also may be unable to give consent due to an intellectual or other disability.
- **Visual or Written:** The display or circulation of visual or written material that degrades an individual or group based on gender, race, nationality, sexual orientation or other protected status. This may include, but is not limited to, posters, cartoons, drawings, graffiti, reading materials, computer graphics or electronic media transmissions.
- **Environmental:** A hostile academic or work environment may exist where it is permeated by sexual innuendo; insults or abusive comments directed at an individual or group based on gender, race, nationality, sexual orientation or other protected status; or gratuitous comments regarding gender, race, sexual orientation, or other protected status that are not relevant to the subject matter of the class or activities on the job. A hostile environment can arise from an unwarranted focus on sexual topics or sexually suggestive statements in the classroom or work environment. It can also be created by an unwarranted focus on, or stereotyping of, particular racial or ethnic groups, sexual orientations, genders or other protected statuses. An environment may also be hostile toward anyone who merely witnesses unlawful harassment in his-~~or~~-her/~~their~~ immediate surroundings, although the conduct is directed at others. The determination of whether an environment is hostile is based on the totality of the circumstances, including such factors as the frequency of the conduct, the severity of the conduct,



whether the conduct is humiliating or physically threatening, and whether the conduct unreasonably interferes with an individual's learning or work.

Sexual Harassment. In addition to the above, sexual harassment consists of 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 educational setting when:

- submission to the conduct is explicitly or implicitly made a term or condition of an individual's employment, academic status, progress, internship, or volunteer activity;
- submission to, or rejection of, the conduct by the individual is used as a basis of employment or academic decisions affecting the individual;
- the conduct has the purpose or effect of having a negative impact upon the individual's work or academic performance, or of creating an intimidating, hostile or offensive work or educational environment (as more fully described below); or
- submission to, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through the community college.

This definition encompasses two (2) kinds of sexual harassment:

- **"Quid pro quo"** sexual harassment occurs when a person in a position of authority makes educational or employment benefits conditional upon an individual's willingness to engage in or tolerate unwanted sexual conduct.
- **"Hostile environment"** sexual harassment occurs when unwelcome conduct based on a person's gender alters the conditions of an individual's learning or work environment, unreasonably interfere with an individual's academic or work performance, or creates an intimidating, hostile, or abusive learning or work environment. The victim must subjectively perceive the environment as hostile, and the harassment must be such that a reasonable person of the same gender would perceive the environment as hostile. A single or isolated incident of sexual harassment may be sufficient to create a hostile environment if it unreasonably interfered with the person's academic or work performance or created an intimidating, hostile, or offensive learning or working environment.

Sexually harassing conduct can occur between people of the same or different genders. The standard for determining whether conduct constitutes sexual harassment is whether a reasonable person of the same gender as the victim would perceive the conduct as harassment based on sex.

Consensual Relationships



Romantic or sexual relationships between supervisors and employees, or between administrators, faculty members or staff members and students are discouraged. There is an inherent imbalance of power and potential for exploitation in such relationships. A conflict of interest may arise if the administrator, faculty members, or staff member must evaluate the student's or employee's work or make decisions affecting the employee or student. The relationship may create an appearance of impropriety and lead to charges of favoritism by other students or employees. A consensual sexual relationship may change, with the result that sexual conduct that was once welcome becomes unwelcome and harassing. In the event that such relationships do occur, the District has the authority to transfer any involved employee, to eliminate or attenuate the supervisory authority of one over the other, or of a teacher over a student. Such action by the District is a proactive and preventive measure to avoid possible charges of harassment and does not constitute discipline against any affected employee.

Academic Freedom

No provision of this administrative procedure shall be interpreted to prohibit conduct that is legitimately related to the course content, teaching methods, scholarship, or public commentary of an individual faculty member or the educational, political, artistic, or literary expression of students in classrooms and public forums. Freedom of speech and academic freedom are, however, not limitless and this procedure will not protect speech or expressive conduct that violates federal or California antidiscrimination laws.

Also see BP 3430 Prohibition of Harassment, BP/AP 3410 Nondiscrimination, BP/AP 3420 Equal Employment Opportunity, [BP/AP 3433 Prohibition of Sexual Harassment Under Title IX](#), [AP 3434 Responding to Harassment Based on Sex Under Title IX](#), and AP 3435 Discrimination and Harassment Complaints and Investigations.

Approved: 11/7/05
Revised: 8/13/12
Revised: 5/9/16
Revised: 5/13/19
Revised: 11/12/19

* CCLC Recommended Language

** AVC Recommended Language

BP 3433 Prohibition of Sexual Harassment under Title IX

References:

Title IX of the Education Amendments Act of 1972;
34 Code of Federal Regulations Part 106

All forms of sexual harassment are contrary to basic standards of conduct between individuals. State and federal law and this policy prohibit sexual harassment and the District will not tolerate sexual harassment. The District is committed to providing an academic and work environment that respects the dignity of individuals and groups. The District shall be free of sexual harassment and all forms of sexual intimidation and exploitation including acts of sexual violence.

The District seeks to foster an environment in which all employees, students, applicants for employment, and applicants for admission feel free to report incidents of sexual harassment in violation of this policy and Title IX, without fear of retaliation or reprisal. Therefore, the District also strictly prohibits retaliation against any individual for filing a complaint of sexual harassment in violation of this policy and Title IX or for participating, or refusing to participate, in a sexual harassment investigation. The District will investigate all allegations of Title IX retaliation swiftly and thoroughly. If the District determines that someone has retaliated, it will take reasonable steps within its power to stop such conduct. Individuals who engage in Title IX retaliatory conduct are subject to disciplinary action, up to and including termination or expulsion.

Any employee, student, applicant for employment, or applicant for admission who believes he/she/they has been harassed or retaliated against in violation of this policy should immediately report such incidents by following the procedures described in AP 3434 Responding to Harassment Based on Sex under Title IX. The District requires supervisors to report all incidents of harassment and retaliation that come to their attention.

This policy applies to all aspects of the academic environment, including but not limited to classroom conditions, grades, academic standing, employment opportunities, scholarships, recommendations, disciplinary actions, and participation in any community college activity. In addition, this policy applies to all terms and conditions of employment, including but not limited to hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leave of absence, training opportunities, and compensation.

To this end, the Superintendent/President shall ensure that the institution undertakes education and training activities to counter sexual harassment and to prevent, minimize, or eliminate any hostile environment that impairs access to equal education opportunity or impacts the terms and conditions of employment.

The Superintendent/President shall establish procedures that define sexual harassment on campus. The Superintendent/President shall further establish procedures for

employees, students, and other members of the campus community that provide for the investigation and resolution of complaints regarding sexual harassment in violation of this policy, and procedures to resolve complaints of sexual harassment in violation of this policy. State and federal law and this policy prohibit retaliatory acts against all participants by the District, its employees, students, and agents.

The District will publish and publicize this policy and related written procedures (including the procedure for making complaints) to administrators, faculty, staff, students, applicants for employment, and applicants for admission, particularly when they are new to the institution. The District will make this policy and related written procedures (including the procedures for making complaints) available in all administrative offices and will post them on the District's website.

Employees who violate the policy and procedures may be subject to disciplinary action up to and including termination. Students who violate this policy and related procedures may be subject to disciplinary measures up to and including expulsion. Volunteers or unpaid interns who violate this policy and related procedures may be subject to disciplinary measure up to and including termination from the volunteer assignment, internship, or other unpaid work experience program.

For non-Title IX complaints reference (change color)

* CCLC Recommended Language

** AVC Recommended Language

AP 3433 Prohibition of Sexual Harassment under Title IX

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

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:

- 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 age or 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.
 - **Sodomy.** Oral or anal sexual intercourse with 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.
 - **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.

- o **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.
- o **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.
- o **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.
- o **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.
- o **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.

For non-Title IX (color)

* CCLC Recommended Language
** AVC Recommended Language

AP 3434 Responding to Harassment Based on Sex under Title IX

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.

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

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 [**designate by name or position**] and the

VPHR or designee for staff
VPSS or designee for student to student

Title IX Coordinator's contact information is:

Address and office location
Phone number
Email

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 wishes to do so. An attorney may serve as an advisor.

NOTE: *The regulations only require the District to provide an Advisor to conduct cross-examination. It is **strongly recommended** that the District provide an Advisor for the entire hearing, if the Party does not identify his/her/their own private Advisor so the Advisor is able to observe the direct examination of all witnesses and thus better able to conduct cross-examination.*

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 has 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: Designees from student services, academic affairs and human resources (change color) person [**or group of people – the District may use one or more**] who will oversee the live hearing and make a determination of responsibility. The Decision-Maker 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.
- o **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 the following employees as Officials with Authority:

[Designate Officials with Authority – Districts should base this decision on the District’s operational structure and the employee’s specific roles and duties. The California Education Code requires that any individuals with any of the following positions or substantially similar positions or job duties, regardless of the specific title the District may attach to the position be considered Officials with Authority: Title IX coordinator or other coordinator designated to comply with and carry out the District’s responsibilities regarding anti-harassment; residential advisors; housing directors, coordinators, or deans; student life directors, coordinators, or deans; athletic directors, coordinators, or deans; coaches of any student athletic or academic team or activity; faculty and associate faculty, teachers, instructors, or lecturers; graduate student instructors, laboratory directors, coordinators, or principal investigators, internship or externship directors or coordinators; and study abroad program directors or coordinators. It is also recommended that individuals identified as supervisors under California’s Fair Employee and Housing Act also be identified as Officials with Authority.]

President
General Counsel
Vice Presidents
Deans
Associate Deans
Executive Directors
Directors
Managers
Supervisors
Coaches

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.

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 **240** calendar days.

When appropriate, the Title IX Coordinator may determine that good cause exists to extend the 240 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. **Written evidence submitted by a Party is limited to 20 pages or 5,000 words.**

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 Complainant'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 does 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.

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 **45 business days [# of days – recommend at least 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 10 business days [**specify # of days – suggest five business days**] days of receiving a Party's appeal;
- Allow the non-appealing Parties at least 15 business days [**specify # of days – suggest ten business days**] 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.

For non-Title IX

* CCLC Recommended Language

** AVC Recommended Language



AP 3435 Discrimination and Harassment Complaints and Investigations

References:

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
~~20 U.S. Code Sections 1681 et seq. 34 Code of Federal Regulations Part 106.8 subdivision (b);~~

~~ANTELOPE VALLEY COLLEGE COMPLAINT PROCEDURE FOR ALLEGATION OF DISCRIMINATION* OR SEXUAL HARASSMENT~~

~~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 file a formal or informal complaint of 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 Assistant Superintendent/Vice President of Human Resources or designee, 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 Assistant Superintendent/Vice President of Human Resources or designee, the Assistant Superintendent/Vice President of Human Resources or designee 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 ~~formal~~ complaint is a written ~~or verbal statement and signed statement~~ filed with the District ~~or the State 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. ~~Complaints must be filed with the Assistant Superintendent/Vice President of Human Resources or designee, 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 President/Superintendent. 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 Complaint

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

~~Upon receipt of an informal complaint, the Assistant Superintendent/Vice President of Human Resources or designee 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 Assistant Superintendent/Vice President of Human Resources or designee 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 Assistant Superintendent/Vice President of Human Resources or designee determines that the allegation(s), if proven true, would constitute a violation of the District policy prohibiting harassment, discrimination, or retaliation. The Assistant Superintendent/Vice President of Human Resources or designee will explain to any individual bringing an informal complaint that the Assistant Superintendent/Vice President of Human Resources or designee may decide to initiate an investigation, even if the individual does not wish the Vice President of Human Resources or designee to do so. The Assistant Superintendent/Vice President of Human Resources or designee 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 State Chancellor of the California Community Colleges or the Assistant Superintendent/Vice President of Human Resources or designee 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 State 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 Human Resources Office and on the college's/district's website.~~



~~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.~~

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 on the District's Human Resources website. A Complainant shall report a verbal Complaint to the Assistant Superintendent/Vice President of Human Resources. The Assistant Superintendent/Vice President of Human Resources or designee shall record the verbal Complaint in writing. The Assistant Superintendent/Vice President of Human Resources or designee will take steps to ensure the writing accurately reflects the facts alleged by the Complainant.

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; **and**
- The complainant must file any ~~Formal~~ Complaint alleging discrimination, harassment, or retaliation in employment within ~~one hundred eighty (180)~~ days of the date of the alleged discriminatory, harassing, or retaliatory conduct, except that this period shall be extended by no more than ~~ninety (90)~~ days following the expiration of the ~~one hundred eighty (180)~~ days if the complainant first obtained knowledge of the facts of the alleged violation after the expiration of the ~~one hundred eighty (180)~~ days.

If the ~~Formal~~ Complaint does not meet the requirements set forth above, the Assistant Superintendent/Vice President of Human Resources or designee will promptly return it to the complainant and specify the defect. ~~If the Complainant is unable to fix the defect in the Complaint, the Assistant Superintendent/Vice President of Human Resources or designee shall consider the allegations contained in the Complaint and determine the appropriate course of action. This may include efforts to informally resolve the matter or a fact-finding~~



~~investigation. If the sole defect is that the Formal Complaint was filed outside the applicable proscribed timeline, the Assistant Superintendent/Vice President of Human Resources or designee will handle the matter as an informal complaint.~~

Oversight of Complaint Procedure

The Assistant Superintendent/Vice President of Human Resources **or designee** 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 the Assistant Superintendent/Vice President of Human Resources **or designee** to other staff or to outside persons or organizations under contract with the District. This shall occur whenever the Assistant Superintendent/Vice President of Human Resources **or designee** is named in the complaint or implicated by the allegations in the complaint ~~or if it is deemed more appropriate to have an outside investigator involved.~~

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 or third party~~ who believes ~~he/she~~ 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.

~~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

~~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 Assistant Superintendent/Vice President of Human or designee Resources. 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 Human Resources Office and at the [California Community Colleges Chancellor's Office website](#).~~

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

- ~~• The Assistant Superintendent/Vice President of Human Resources or designee;~~
- ~~• The Assistant Superintendent/Vice President of Student Services~~
- ~~• Superintendent/President~~
- ~~• The California Community Colleges Chancellor's Office.~~

Advisers in Student **Sexual 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 wishes 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 Department of Civil Rights 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 Assistant Superintendent/Vice President of Human Resources [or designee](#) 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 ~~thirty (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

~~Although it is not required, t~~The District 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 Assistant



Superintendent/Vice President of Human Resources or designee 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 the complainant~~ that he/she/they 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. Mediation ~~in all cases is~~ may be permitted as long as all parties agree, ~~except to resolve allegations of sexual violence.~~
- ~~Advise a student complainant that he/she/they 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 California Department of Civil Rights 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 Assistant Superintendent/Vice President of Human Resources or designee shall also notify the California Community Colleges Chancellor's Office of the complaint.~~
- 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 Assistant Superintendent/Vice President of Human Resources ~~or designee~~ 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 Assistant Superintendent/Vice President of Human Resources [or designee](#) 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 [Assistant](#)



Superintendent/Vice President of Human Resources or designee 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 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 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. 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 ~~complainant parties~~ opts for an informal resolution, the Assistant Superintendent/ Vice President of Human Resources or designee 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 Title IX 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(s).
- Interviewing the accused individual(s).
- Identifying and interviewing witnesses and evidence identified by each party.
- Identifying and interviewing any other witnesses, **if needed.**
- ~~If needed;~~ Reminding all individuals interviewed of the District's no-retaliation policy.
- Consider whether any involved person should be removed from the campus pending completion of the investigation.
- Reviewing personnel/academic files of all involved parties as warranted.
- 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 ninety (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 description of the procedural steps taken during the investigation, including all individuals contacted and interviewed;**
- ~~A summary of the testimony provided by each witness, including the Complainant and any available witnesses identified by the Complainant in the Complaint; interviewed by the investigator;~~
- 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 there is probable cause to believe that discrimination, harassment, or retaliation occurred based on the preponderance of the evidence standard; with respect to each allegation in the complaint; and**
- **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 **Accused** students and employees **respondents** during the investigation process and any ensuing discipline.

Administrative Determination



In any case not involving employment discrimination, within ~~ninety (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 of the California Community Colleges:~~

- o The ~~President/Superintendent's or his/her/their designee's~~ determination of the ~~Assistant Superintendent/Vice President of Human Resources or designee~~ as to whether unlawful discrimination occurred ~~there is probable cause to believe 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;~~
- o ~~In the event a discrimination allegation is substantiated, A~~ a description of actions taken, if any, to prevent similar ~~problems~~ acts of unlawful discrimination from occurring in the future;
- o The proposed resolution of the complaint; ~~and~~
- o The complainant's right to appeal to the District Board of Trustees and the ~~Chancellor of the~~ California Community Colleges ~~Chancellor's Office;~~ and
- o 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 ~~ninety (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 ~~to the complainant~~ setting forth all the following ~~to the complainant:~~

- o The ~~President/Superintendent's or his/her/their designee's~~ determination of the ~~Assistant Superintendent/Vice President of Human Resources or designee~~ as to whether unlawful discrimination occurred ~~there is probable cause to believe 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;~~
- o ~~In the event a discrimination allegation is substantiated, A~~ a description of actions taken, if any, to prevent similar ~~problems~~ acts of unlawful discrimination from occurring in the future;
- o The proposed resolution of the complaint; ~~and~~
- o ~~The~~ complainant's right to appeal to the District Board of Trustees and to file a complaint with the [California Department of Civil Rights Department of Fair Employment and Housing](#) ~~or the~~



~~U.S. Equal Employment Opportunity Commission.~~

The District shall also provide the respondent the following:

- The President/Superintendent'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.

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.

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.

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 as delineated in collective bargaining agreements or policies and procedures.



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 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 and District Final Decision

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, ~~the complainant~~ **he/she/they** may, within ~~fifteen (15)~~ days, submit a written appeal to the District 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 of Trustees shall review the original complaint, the investigative report, the administrative determination, and the appeal. ~~The Board shall and~~ issue a final District decision in the matter within ~~forty-five (45)~~ days after receiving the appeal. A copy of the ~~final District~~ decision rendered by the Board of Trustees shall be forwarded to the complainant and ~~the respondent to the Chancellor of the California Community Colleges.~~ The complainant shall also be notified of his/her/~~their~~ right to appeal this decision.

If the Board of Trustees does not act within ~~forty-five (45)~~ days, the administrative determination shall be deemed approved **on the 46th day** and shall become the final District decision 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 employment discrimination, harassment, or retaliation, the complainant shall have the right to file a written appeal with the ~~Chancellor of the California Community Colleges~~ **Chancellor's Office** within ~~thirty (30)~~ days after the Board of Trustees issues ~~sd~~ the final District decision or permitted ~~sd~~ the administrative determination to become final. Such appeals shall be processed pursuant to the provision of Title 5 Section 59350.

In any case involving ~~an~~ employment discrimination, including workplace harassment, ~~allegation of discrimination on the basis of race, color, national origin, sex, disability or age, in the provision of programs and services provided by the college,~~ a the complainant may at any time before or after the issuance of the final decision of the District, file a Complaint with the [California Department of Civil Rights](#) ~~Department of Fair Employment and Housing~~ also file a complaint with U.S. Department of Education. ~~Complaints may also be filed with the Equal Employment Opportunity Commission or the Department of Fair Employment and Housing (addresses listed below):~~



~~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.~~

~~**Equal Employment Opportunity Commission**~~

~~Roybal Federal Building
255 E. Temple Street, 4th Floor
Los Angeles, CA 90012
<http://www.eeoc.gov>~~

~~Office for Civil Rights (OCR)~~

~~**United States Department of Education**~~

~~50 Beale Street, Suite 7200
San Francisco, CA 94105
<http://www.ed.gov/offices/OCR>~~

~~**Department of Fair Employment and Housing (DFEH)**~~

~~611 West Sixth Street, Suite 1500
Los Angeles, CA 90017
<http://www.dfeh.ca.gov/default.asp>~~

Remand

The California Community College 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 College 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 College Chancellor's Office within 30 days by following the appeal procedures above.

Extension of Time

~~Within one hundred fifty (150) days of receiving a complaint, the District will forward the following to the Chancellor of the California Community Colleges:~~

- ~~• The original complaint;~~
- ~~• The report describing the nature and extent of the investigation conducted by the District;~~
- ~~• A copy of the notice sent to the complainant (pursuant to Government Code~~



~~Section 59336);~~

- ~~• A copy of the final District decision rendered by the Board of Trustees or a statement indicating the date on which the administrative decision became final~~
- ~~• A copy of the notice to the complainant (pursuant to Government Code Section 59338);~~
- ~~• Such other information as the Chancellor of the California Community Colleges may require.~~

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.

Extensions; Failure to Comply

~~If a District, for reasons beyond its control, is unable to comply with the one hundred fifty (150)-day deadline specified for submission of materials to the Chancellor of the California Community Colleges, the District may file a written request that the Chancellor of the California Community Colleges grant an extension of the deadline. The request shall be submitted no later than ten (10) days prior to the expiration of the deadline established and shall set the reasons for the request and the date by which the District expects to be able to submit the required materials.~~

~~A copy of the request for an extension shall be sent to the complainant who may file written objections with the Chancellor of the California Community Colleges within five (5)~~



~~days of receipt.~~

~~The Chancellor of the California Community Colleges may grant the request unless delay would be prejudicial to the complainant.~~

~~If a District fails to comply with the requirements by the required deadline, including any extension granted, the Chancellor of the California Community Colleges may proceed to review the case based on the original complaint and any other relevant information then available.~~

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-contact 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 ~~three (3)~~ 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 complainant, parties~~ of the District's administrative determination and ~~his/her~~ 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.

~~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 Assistant Superintendent/Vice President of Human Resources or 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 the Assistant Superintendent/Vice President of Human Resources. 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 responsible 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 employee's obligations to report to the Title IX Coordinator, the victim's option to request confidentiality, which the District will take into consideration, and the victim's 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 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 victim's consent.~~

~~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 or designee, 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:~~

- ~~• Providing an escort~~
- ~~• 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~~

~~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.~~

~~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 ninety (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 State California Community Colleges Chancellor's Office

~~The District considers all sexual misconduct complaints to be formal complaints. The Assistant Superintendent/Vice President of Human Resources or designee must notify the California Community Colleges 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 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~~ 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. ~~and District policy and procedures related to harassment will~~ 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.

Supervisory Employee Training

By January 1, 202~~10~~, the District shall provide at least two ~~(2)~~ hours of classroom or other effective interactive training and education regarding sexual harassment to all supervisory employees and at least one ~~(1)~~ 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, 202~~10~~, the District shall provide sexual harassment training and education to each employee once every two ~~(2)~~ 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, a review of "abusive conduct," and harassment based on gender identify, 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, 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 ~~three (3)~~ two years.

Staff and Student Leader Training

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 and/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.~~ 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.

Also see BP/AP 3410 Nondiscrimination, BP/AP 3430 Prohibition of Harassment, ~~and~~ BP/AP 3420 Equal Employment Opportunity, [BP/AP 3433 Prohibition of Sexual Harassment under Title IX](#), and [AP 3434 Responding to Harassment Based on Sex Under Title IX](#).

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* CCLC Recommended Language

** AVC Recommended Language