

## Chapter 3 General Institution

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**Note:** All Chapter 3, General Institution, Board Policies and Administrative Procedures are being reviewed. They will be presented to you in segments. The policies and procedures with recommended edits are identified in **bold**.

Edits are usually:

- Changes to accreditation standards
  - Updates recommended by the Community College League of California policy subscriber service (ongoing legislative/regulation changes, court decisions, etc.)
  - Internally generated
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Chapter Review BP 3100 - 3440

### **Policies:**

<b>BP 3100</b>	<b>Organizational Structure</b>
<b>BP 3225</b>	<b>Institutional Effectiveness</b>
<del>BP 3280</del>	<del>Grants (still being discussed)</del>
BP 3300	Public Records
BP 3310	Records Retention and Destruction
<b>BP 3420</b>	<b>Equal Employment Opportunity</b>
<b>BP 3430</b>	<b>Prohibition of Harassment</b>
BP 3440	Service Animals

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Chapter Review AP 3225 - 3440

### **Procedures:**

<b>AP 3225</b>	<b>Institutional Effectiveness</b>
<del>AP 3280</del>	<del>Grants (still being discussed)</del>
AP 3300	Public Records
AP 3310	Records Retention and Destruction
<b>AP 3420</b>	<b>Equal Employment Opportunity</b>
<b>AP 3435</b>	<b>Discrimination and Harassment <u>Complaints and Investigations</u></b>
AP 3440	Service Animals

*Edits recommended.*

## **BP 3100 Organizational Structure**

**Reference:**

***Education Code 72400***

The President of the College shall establish organizational charts that delineate the lines of responsibility and fix the general duties of employees within the District.

Organizational charts are to be updated no less than annually and will be included in the College's Final Budget each year.

Reviewed and Approved by the Board of Trustees: \_\_\_\_\_  
Approved by the Board of Trustees December 11, 2001

New policy and procedure

## **BP 3225 Institutional Effectiveness**

### **References:**

**Education Code Sections 78210 et seq., and 84754.6;**

**ACCJC Accreditation Standard I.B.5 - 9**

**Note:** *This policy is legally advised for those districts that receive funds under the Seymour-Campbell Student Success Act of 2012, Education Code Sections 78210 et seq.*

The Board is committed to developing goals that measure the ongoing condition of the District's operational environment. The Board regularly assesses the District's institutional effectiveness.

New policy and procedure

**AP 3225 Institutional Effectiveness**

**References:**

**Education Code Sections 78210 et seq. and 84754.6:**

**ACCJC Accreditation Standards I.B.5 – 9**

**NOTE:** *This procedure is legally advised for this districts that receive funds under the Seymour-Campbell Student Success Act of 2012, Education Code Section 78210, et seq.*

The District shall develop, adopt, and publicly post goals that addresses all of the following: (1) accreditation status; (2) fiscal viability; (3) student performance and outcomes; and (4) programmatic compliance with state and federal guidelines.

The goals should be challenging and quantifiable, address achievement gaps for underrepresented populations, and align the educational attainment of California's adult population to the workforce and economic needs of the state.

*Reviewed with no recommended changes.*

## **BP 3300 Public Records**

**Reference:**

*Government Code Sections 6250, et seq.*

The President of the College shall establish procedures for records management, including access by the public that complies with the requirements of the California Public Records Act.

**See Administrative Procedures #3300**

Reviewed and Approved by the Board of Trustees: \_\_\_\_\_  
Approved by the Board of Trustees December 11, 2001

*Reviewed with no recommended changes.*

## **AP 3300 Public Records**

### **Reference:**

***Government Code Section 6250 et seq.***

Members of the public may request to inspect or copy public records. A request by a member of the public may be delivered by mail or in person to the Public Information Office.

Any request shall identify with reasonable specificity the records that are sought. If additional information is needed, the Public Information Office may request it be provided in writing.

Any request to inspect records shall be made sufficiently in advance of the date of inspection to allow staff time to assemble the records and identify any records that may be exempt from disclosure.

Records that are exempt from disclosure under the Public Records Act or any other provision of law may not be inspected or copied by members of the public.

Members of the public shall be assisted in identifying records or information that may respond to their request. Assistance that will be provided includes: the information technology and physical location in which the records exist; practical suggestions for overcoming denial of access to the records or information; and the estimated date and time when the records will be made available.

Within ten days, the Public Information Office will determine whether or not the records can be produced and will communicate the determination to the member of the public requesting the record(s).

The most common exemptions for community colleges include:

- Student records (Education Code Section 76243)
- Preliminary drafts, notes, or interagency or intra-agency memoranda that are not retained by the public agency in the ordinary course of business, provided that the public interest in withholding the records clearly outweighs the public interest in disclosure. (Government Code Section 6254(a))
- Records pertaining to pending litigation ...or to claims...until the pending litigation or claim has been finally adjudicated or otherwise settled. (Government Code Section 6254(b))
- Personnel, medical or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy (Government Code Section 6254(c))
- Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination [except for standardized tests provided for by Education Code Section 99150 et seq.]. (Government Code Section 6254(g).)
- The contents of real estate appraisals or engineering or feasibility estimates and evaluations...relative to the acquisition of property, or to prospective public supply and

construction contracts, until all of the property has been acquired or all of the contract agreement obtained. (Government Code Section 6254(h).

- Internet posting of home address or telephone numbers of local elected officials (Government Code Section 6254.21)
- Home addresses and home telephone number of employees of a school District or county office of education (other than to an agent or family member of the employee, to an officer of another school District when necessary, to an employee organization, or to an agency or employee of a health benefit plan. (Government Code Section 6254.3)
- Records regarding alternative investments (i.e. an investment in a private equity fund, venture fund, hedge fund, or absolute return fund; limited partnership, limited liability company or similar legal structure) involving public investment funds, unless already publicly released by the keeper of the information.
- Information security records, if disclosure of that record would reveal vulnerabilities to, or otherwise increase the potential for an attack on, the District's information technology system.

Reviewed and Approved by the Board of Trustees: \_\_\_\_\_

Amended by the Board of Trustees: August 9, 2011

Amended by the Board of Trustees: November 13, 2007

Amended by the Board of Trustees: September 12, 2006

Approved by the Board of Trustees December 11, 2001

*Reviewed with no recommended changes.*

## **BP 3310 Records Retention and Destruction**

**Reference:**

***Title 5, Sections 59020, et seq.; Federal Rules of Civil Procedure, Rules 16, 26, 33, 34, 37, 45***

The President of the College shall establish administrative procedures to assure the retention and destruction of all District records, including electronically stored information as defined by the Federal Rules of Civil Procedure in compliance with Title 5. Such records shall include but not be limited to student records, employment records and financial records.

**See Administrative Procedure #3310**

Reviewed and Approved by the Board of Trustees: \_\_\_\_\_  
Amended by the Board of Trustees: November 13, 2007  
Approved by the Board of Trustees: December 11, 2001



*Reviewed with no recommended changes.*

## **AP 3310 Records Retention and Destruction**

### **Reference:**

***Title 5, Sections 59020, et seq.; Federal Rules of Civil Procedures, Rules 16, 26, 33, 34, 37, 45***

“Records” means all records, maps, books, papers, data processing output, and documents of the District required by Title 5 to be retained, including but not limited to records created originally by computer, and “electronically stored information” (“ESI”), as that term is defined by the Federal Rules of Civil Procedure .

The Vice President of Administrative Services shall supervise the classification and destruction of all Administrative Services records and ESI, the Vice President of Student Services shall supervise the classification and destruction of al student records and ESI, and the Vice President of Instruction shall supervise the classification and destruction of all instructional records and ESI. An annual report shall be made to the Board of Trustees regarding the classification and destruction of records and ESI.

Records shall be classified as required by Title 5 and other applicable statutes, federal and state regulations.

Records shall annually be reviewed to determine whether they should be classified as Class 1 – Permanent, Class 2 – Optional, or Class 3 – Disposable (as defined in Title 5).

Class 3 – disposable records shall be maintained for the period required by applicable law or regulation, but in any event shall be retained for at least three college years after the year in which they were originally created.

Destruction is by any method that assures the record is permanently destroyed, e.g. shredding, burning, pulping.

Reviewed and Approved by the Board of Trustees: \_\_\_\_\_  
Amended by the Board of Trustees: November 13, 2007  
Amended by the Board of Trustees: October 9, 2007  
Approved by the Board of Trustees: December 11, 2001

This would be a new policy and procedure for the District.

## **BP 3420 Equal Employment Opportunity**

### **References:**

**Education Code Sections 87100, et seq.;**

**Title 5 Sections 53000 et seq.;**

**ACCJC Accreditation Standard III.A.12**

**NOTE:** *This policy is **legally required**. BP 3420 and the corresponding procedure comply with Title 5 Section 53000 and Education Code Sections 87100 et seq., as amended in 2002. Because this remains a highly dynamic area of law, consultation with legal counsel in implementing this policy and procedure is advised.*

The Board supports the intent set forth by the California Legislature to assure that effort is made to build a community in which opportunity is equalized, and community colleges foster a climate of acceptance, with the inclusion of faculty and staff from a wide variety of backgrounds. It agrees that diversity in the academic environment fosters cultural awareness, mutual understanding and respect, harmony and respect, and suitable role models for all students. The Board 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, 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.

**CCLC Revised 2/03, 4/15**

This would be a new policy and procedure for the District.

## 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

**NOTE:** *This procedure is **legally required**. Local practice may be inserted here that conforms to the 2002 revisions of Title 5 Sections 53000 et seq. or reference the current District Equal Employment Opportunity (EEO) Plan.*

*Due to the dynamic and untested nature of this area of law, this procedure identifies points in the hiring process where consultation with legal counsel may be prudent.*

*The EEO Plan will 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 State Chancellor's Office for review 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 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(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 State Chancellor, 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 State 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;

- 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;
- 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.
- An annual report to the State Chancellor's Office of this demographic data. The report shall identify each employee as belonging to one of the following seven job categories:
  - executive/administrative/managerial
  - faculty and other instructional staff
  - professional non-faculty
  - secretarial/clerical
  - technical and paraprofessional
  - skilled crafts; and
  - service and maintenance.
- The opportunity for each employee to identify his/her gender, ethnicity and, if applicable, disability. This opportunity must allow for a person to designate multiple ethnic groups with which he/she 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:
- 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 State Chancellor, which may indicate significant underrepresentation of a monitored group.

### **EEO Advisory Committee**

- That the District shall establish an EEO Advisory Committee; and
- That the advisory committee shall include a diverse membership whenever possible.
- The advisory committee shall receive training in all of the following: applicable Title 5 regulations and of state and federal nondiscrimination laws; the educational benefits of workforce diversity, the identification and elimination of bias in hiring decisions; and the role of the advisory committee in carrying out of the District's EEO Plan.

The responsibilities of the Committee shall include but not be limited to the following:

- review and advise on recruitment efforts: job announcements, interview protocols, retention efforts and other aspects of the hiring, retention, and promotion processes that impact the District's ability to attract and retain a diverse faculty and staff;
- advise on implementing the District's obligation to hire faculty and administrators with a demonstrated sensitivity to, and understanding of, the diverse academic, socioeconomic, cultural, disability and ethnic backgrounds of community college students;
- promote communication with community groups and organizations for people with disabilities;
- promote hiring of faculty who have, themselves, graduated from a community college;
- develop communications among departments to foster understandings of the Plan;
- to advise the Superintendent/President regarding special training or staff development needs;
- review the Plan and monitor its progress;
- recommend changes needed in the Plan; and
- review and approve the annual written report to the Superintendent/President, the Board of Trustees, and the State Chancellor's Office.

### **Employment Procedures**

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

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

**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 involving interim hires.

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

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

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 voluntarily as to gender, ethnicity and, if applicable, his/her 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 recorded and reviewed by the Director, Human Resources or designee. 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 applicant pool is formed, the pool must again be analyzed. If the Director, Human Resources or designee finds that the composition of the qualified applicant pool may have been influenced by factors which are not job related, the District **[may or shall]** 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.

**NOTE:** Procedures to be used must address or include that:

- Hiring procedures will be provided to the State 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 administrators, faculty, **students, directors/confidential employees** and classified staff members; include a diverse membership when possible; do not include applicants or persons who have written letters of recommendation.

- Every screening and selection committee includes an individual trained to monitor conformance with EEO requirements. The EEO designated representative assures that the screening and selection process conforms to accepted principles and practices, including preparation of job related questions in advance; maintains records of screening checklists and rating scales, which shall be signed and kept on file; maintains notes for all interviews and record relevant factual reasons stating why a candidate was not hired or was not invited to interview; and monitors the hiring process for adverse impact.
- 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 or permitted by law;
- consider various other means of reducing the underrepresentation which do not involve taking monitored group status into account and implement any such techniques that are feasible;
- If significant underrepresentation persists:
  - review each locally-established job qualification to determine if it is job related and
  - consistent with business necessity;
  - discontinue the use of any non-job-related local qualification; and
  - continue using job-related local qualifications only if no alternative standard is reasonably available; and
  - consider the implementation of additional measures designed to promote diversity.

**NOTE:** Insert local practice regarding the delegation of authority for implementing the District's EEO Plan, which must comply with Title 5 Section 53020, as amended. These procedures must include or address:

#### **Delegation of Authority**

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

**NOTE:** Insert local practice regarding internal complaints of discrimination. The following elements are required by Title 5 Section 59320.

#### **Complaint Procedure**

The District must identify to the public and to the State 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 State Chancellor's Office.

A formal complaint not involving employment, must be processed if it is filed within one 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 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 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 State 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 State Chancellor's Office with a copy of the investigative report within 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 90 days from the date the District received the complaint. The State Chancellor's Office and the complainant must also be provided with a written notice setting forth the determination of the Director, 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 Governing Board and the State 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 Director, 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 Governing Board 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 governing board within 15 days from the date of the notice of the administrative determination. The Board must review the original complaint, the investigative report, the administrative determination, and the appeal and must issue a final District decision within 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 State 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 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 State Chancellor's Office, that the Board 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 State 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 State Chancellor's Office within 30 days after the Board 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 Section 59338(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 State 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 ethnic and racial minorities, women, persons with disabilities, and Vietnam-era veterans. No

person shall be denied employment because of ethnicity or race, color, sex or gender, gender identity, age, religion, marital status, disability, sexual orientation, national origin, medical conditions, status as a Vietnam-era veteran, ancestry, or political or organizational affiliation.

### **Dissemination and Revision of the Plan**

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 years and, if necessary, revised and submitted to the State Chancellor's Office within 90 days of the effective date of the revision or amendment(s). If the State Chancellor's Office determines that the District's policies are not in compliance with Title 5 Sections 59300 et seq., the State Chancellor's Office may require the District to modify its policies.

### **Accountability and Corrective Action**

The District shall certify annually to the State 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.

***Edits recommended***

## **BP 3430 Prohibition of Harassment**

### **References:**

*Education Code Sections 212.5, 44100, 66252, and 66281.5;*

*Government Code Sections 12940 and 12950.1;*

*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. 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, including that which is based on any of the following statuses: 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, or military and veteran status, or because he or she is perceived to have one or more of the foregoing characteristics.

The District seeks to foster an environment in which all employees, ~~and 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. All allegations of retaliation will be swiftly and thoroughly investigated. If the District determines that 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, ~~or employee,~~ unpaid intern, or volunteer who believes that he or she has been harassed or retaliated against in violation of this policy should immediately report such incidents by following the procedures described in AP 3435. 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 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. All participants are protected from retaliatory acts by the District, its employees, students, and agents.

This policy and related written procedures (including the procedure for making complaints) shall be widely published and publicized to administrators, faculty, staff, ~~and~~ students, unpaid interns and, volunteers particularly when they are new to the institution. They shall be available for students, ~~and~~ employees, unpaid interns, and volunteers in all administrative offices.

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.

**See Administrative Procedures #3430 and #3435**

Amended by the Board of Trustees: November 10, 2014  
Amended by the Board of Trustees: October 9, 2012  
Amended by the Board of Trustees: October 10, 2006  
Amended by the Board of Trustees: November 11, 2003  
Approved by the Board of Trustees: December 11, 2001

## **Edits recommended**

**CCLC Note:** The title of this procedure was updated for clarity. The procedure was updated to clarify the differences between formal and informal complaints as well as the differences in handling both. The procedure was also updated to clarify different appeal and notification requirement for complaints based on employment and those not related to employment.

# AP 3435 Discrimination and Harassment **Complaints and Investigations**

## References:

***Education Code Section 66281.5;***  
***Government Code Section 12950.1;***  
***Title 5 Sections 59320, 59324, 59326, 59328, and 59300 et seq.;***  
***34 Code of Federal Regulations Section 106.8(b)***

## **Complaints**

Any person who has suffered harassment, discrimination, or retaliation may file a formal or informal complaint of harassment, discrimination, or retaliation.

A formal complaint is a written and signed statement filed with the District or the State Chancellor's office that alleges harassment, discrimination, or retaliation in violation of the District's Board Policies, Administrative Procedures or in violation of state or federal law. An informal complaint is any of the following: (1) An unwritten allegation of harassment, discrimination, or retaliation; (2) a written allegation of harassment, discrimination, or retaliation that falls outside the timelines for a formal complaint; or (3) a written complaint alleging harassment, discrimination, or retaliation filed by an individual who expressly indicates that he or she does not want to file a formal complaint.

## **Informal Complaints**

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

Upon receipt of an informal complaint, the Vice President of Administrative Services will notify the person bringing the informal complaint of his or 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 Vice President of Administrative Services 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 Vice President of Administrative Services determines that the allegation(s), if proven true, would constitute a violation of the District policy prohibiting harassment, discrimination, or retaliation. The Vice President of

Administrative Services will explain to any individual bringing an informal complaint that the Vice President of Administrative Services may decide to initiate an investigation, even if the individual does not wish the Vice President of Administrative Services to do so. The Vice President of Administrative Services 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 or the Vice President of Administrative Services] 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.

Formal Complaints should be submitted on the form prescribed by the State Chancellor. A copy of the form will be available at :

- The Vice President of Administrative Services;
- the Chief Student Services Officer, the Chief Instructional Officer and/or the Chief Human Resources Officer; and/or
- the State Chancellor's Office.

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

A Formal Complaint must meet each of the following criteria:

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

If the Formal Complaint does not meet the requirements set forth above, the Vice President of Administrative Services will promptly return it to the complainant and specify the defect. If the

sole defect is that the Formal Complaint was filed outside the applicable proscribed timeline, the Vice President of Administrative Services will handle the matter as an informal complaint.

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

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

~~The District will investigate complaints involving acts that occur off campus if they are related to an academic or work activity.~~

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

**Oversight of Complaint Procedure:** The Vice President of Administrative Services 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 Vice President of Administrative Services to other staff or to outside persons or organizations under contract with the District. This shall occur whenever the Vice President of Administrative Services is named in the complaint or implicated by the allegations in the complaint.

**Who May File a Complaint:** Any student, employee, or third party who believes he/she has been discriminated against or harassed by a student, employee, or third party in violation of this procedure and the related policy.

**Where to File a Complaint:** A student, employee, or third party who believes he/she has been discriminated against or harassed in violation of these policy and procedures may make a complaint orally or in writing, ~~within one year of the date of the alleged harassment or the date on which the complainant knew or should have known of the facts underlying the complaint.~~

If a complainant decides to file a formal written unlawful discrimination or harassment complaint against the District, he/she must file the complaint on a form prescribed by the State Chancellor's Office. These approved forms are available from the Vice President of Administrative Services and at the following URL: [www.cccco.edu/divisions/legal/discrimination/discrimination.htm](http://www.cccco.edu/divisions/legal/discrimination/discrimination.htm) the State Chancellor's Office website.

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

- The Vice President of Administrative Services;
- the Chief Student Services Officer, the Chief Instructional Officer and/or the Chief Human Resources Officer; and/or
- the State Chancellor's Office.

## **Employment Related Complaints**

Complainants filling employment-related complaints ~~Employee complainants~~ shall be notified that they may file employment discrimination complaints with the U.S. Equal Employment Opportunity Commission (EEOC) or the Department of Fair Employment and Housing (DFEH).

Complaints filed with the EEOC and/or the DFEH should be forwarded to the State Chancellor's Office.

Any District employee who receives a harassment or discrimination complaint shall notify the Vice President of Administrative Services immediately.

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

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

The District will investigate complaints involving acts that occur off campus if they are related to an academic or work activity.

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

**Intake and Processing of the Complaint:** Upon receiving notification of a harassment or discrimination complaint, the Vice President of Administrative Services shall:

- Undertake efforts to informally resolve the charges, including but not limited to mediation, rearrangement of work/academic schedules; obtaining apologies; providing informal counseling and/or training, etc.
- Advise the complainant that he/she need not participate in an informal resolution of the complaint, as described above, and has the right to end the informal resolution process at any time. Mediation is not appropriate for resolving incidents involving sexual violence.
- Advise complainant that he/she may file a complaint with the Office of Civil Rights of the U.S. Department of Education and employee complainants may file a complaint with the Department of Fair Employment and Housing. All complainants should be advised that they have a right to file a complaint with local law enforcement, if the act complained of is also a criminal act. The District must investigate even if the complainant files a complaint with local law enforcement. In addition, the District should ensure that complainants are aware of any available resources, such as counseling, health, and mental health services. The Vice President of Administrative Services shall also notify the State Chancellor's Office of the complaint.
- Take interim steps to protect a complainant from coming into contact with an accused individual, especially if the complainant is a victim of sexual violence. The Vice President of Administrative Services should notify the complainant of his or her options to avoid contact with the accused individual and allow students to change academic situations as appropriate. For instance, the District may prohibit the accused individual



from having any contact with the complainant pending the results of the investigation. When taking steps to separate the complainant and accused individual, the District shall minimize the burden on the complainant. For example, it is not appropriate to remove complainants from classes or housing while allowing accused individuals to remain.

### Investigation

#### The Vice President of Administrative Services shall:

- Authorize the investigation of the complaint, and supervise and/or conduct a thorough, prompt and impartial investigation of the complaint, as set forth below. Where complainants opt for informal resolution, the designated officer will determine whether further investigation is necessary to ensure resolution of the matter and utilize the investigation process outlined below as appropriate. In the case of a formal complaint, the investigation will include interviews with the complainant, the accused, and any other persons who may have relevant knowledge concerning the complaint. This may include victims of similar conduct.
- Review the factual information gathered through the investigation to determine whether the alleged conduct constitutes harassment, or other unlawful discriminatory conduct, giving consideration to all factual information and the totality of the circumstances, including the nature of the verbal, physical, visual or sexual conduct, and the context in which the alleged incidents occurred.
- ~~Set forth the results of the investigation in a written report. The written report shall 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 there is probable cause to believe that discrimination did or did not occur with respect to each allegation in the complaint, a description of actions the District will take to prevent similar conduct, the proposed resolution of the complaint, the complainant's right to appeal to the District's governing board, and if the complainant is a student, the right to appeal to the State Chancellor. If the complainant is an employee, the report shall include the right to file an administrative complaint with the Department of Fair Employment and Housing. The report may contain any other appropriate information.~~
- ~~Provide the complainant and accused with a copy or summary of the investigative report within ninety days from the date the District received the complaint. The complainant and accused shall also be provided with a written notice setting forth the determination of the Vice President of Administrative Services as to whether harassment or other discriminatory conduct 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 parties' rights to appeal to the District's Board of Trustees and the State Chancellor's Office. The results of the investigation and the determination as to whether harassment or other discriminatory conduct occurred shall also be reported to the accused, and the appropriate academic or administrative official(s). Reports to the complainant shall be prepared so as not to violate any applicable privacy rights of the accused.~~

**Investigation of the Complaint:** The District shall promptly investigate every complaint 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.

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

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

Investigators will use the following steps: interviewing the complainant(s); interviewing the accused individual(s); identifying and interviewing witnesses and evidence identified by each party; identifying and interviewing any other witnesses, if needed; reminding all individuals interviewed of the District’s no-retaliation policy; considering whether any involved person should be removed from the campus pending completion of the investigation; reviewing personnel/academic files of all involved parties; reach a conclusion as to the allegations and any appropriate disciplinary and remedial action; and see that all recommended action is carried out in a timely fashion. When the District evaluates the complaint, it shall do so using a preponderance of the evidence standard. Thus, after considering all the evidence it has gathered, the District will decide whether it is more likely than not that discrimination or harassment has occurred.

**Timeline for Completion:** The District will undertake its investigation promptly and swiftly as possible. To that end, the investigator shall complete the above steps, and prepare a written report within 90 days of the District receiving the complaint.

**Cooperation Encouraged:** All employees are expected to cooperate with a District investigation into allegations of harassment or discrimination. Lack of cooperation impedes the ability of the District to investigate thoroughly and respond effectively. However, lack of cooperation by a complainant or witnesses does not relieve the District of its obligation to investigate. The District will conduct an investigation if it is discovered that harassment is, or may be occurring, with or without the cooperation of the alleged victim(s) and regardless of whether a complaint is filed.

### **Written Report**

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

- A description of the circumstances giving rise to the Formal Complaint;
- A summary of the testimony provided by each witness interviewed by the investigator;
- An analysis of relevant evidence collected during the course of the investigation;

- A specific finding as to whether there is probable cause to believe that discrimination, harassment, or retaliation occurred with respect to each allegation in the complaint; and
- Any other information deemed appropriate by the District.

### **Confidentiality of the Process**

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

### **Administrative Determination**

- In any case not involving employment discrimination, within 90 days of receiving a complaint, the district shall complete its investigation and forward a copy of the investigative report to the State Chancellor, a copy or summary of the report to the complainant, and written notice setting forth all of the following to both the complainant and the Chancellor:
  - The determination of the Superintendent/President or his/her designee as to whether there is probable cause to believe discrimination occurred with respect to each allegation in the complaint;
  - A description of actions taken, if any, to prevent similar problems from occurring in the future;
  - The proposed resolution of the complaint; and
  - The complainant's right to appeal to the district governing board and the Chancellor.
- In any case involving employment discrimination, within 90 days of receiving a complaint, the district shall complete its investigation and forward a copy or summary of the report to the complainant, and written notice setting forth all the following to the complainant:
  - The determination of the Superintendent/President or his/her designee as to whether there is probable cause to believe discrimination occurred with respect to each allegation in the complaint;
  - A description of actions taken, if any, to prevent similar problems from occurring in the future;
  - The proposed resolution of the complaint; and
  - The complainant's right to appeal to the district governing board and to file a complaint with Department of Fair Employment and Housing or the U.S Equal Employment Opportunity Commission.

### **Discipline and Corrective Action**

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

- providing an escort to ensure that the complainant can move safely between classes and activities;

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

If the District imposes discipline ~~is imposed~~, 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, ~~and/or~~ discrimination, and to protect the complainant and witnesses from retaliation as a result of communicating the complaint and/or assisting in the investigation. The District will ensure that complainants and witnesses know how to report any subsequent problems, and should follow-up with complainants to determine whether any retaliation or new incidents of harassment have occurred. The District shall take reasonable steps to ensure the confidentiality of the investigation and to protect the privacy of all parties to the extent possible without impeding the District's ability to investigate and respond effectively to the complaint.

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

### **Appeals**

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

If the complainant is not satisfied with the results of the administrative determination, he/she may, within fifteen days, submit a written appeal to the Board of Trustees. The Board shall review the original complaint, the investigative report, the administrative decision, and the appeal. The Board shall issue a final District decision in the matter within 45 days after receiving the appeal. A copy of the decision rendered by the Board shall be forwarded to the complainant and to the State Chancellor's Office. The complainant shall also be notified of his/her right to appeal this decision.

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

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

In any case involving employment discrimination, including workplace harassment, the complainant may, at any time before or after the issuance of the final decision of the District, file a complaint with the Department of Fair Employment and Housing. ~~In such cases, the complainant may also file a petition for review with the State Chancellor's Office within thirty days after the governing board issues the final decision or permits the administrative decision to become final.~~

### **Extension of Time**

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

### **File Retention**

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

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

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

### **Dissemination of Policy and Procedures**

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

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

### **Training**

~~By January 1, 2006, the~~ The District shall provide at least two hours of classroom or other effective interactive training and education regarding sexual harassment to all supervisory employees once every two years. ~~who are employed as of July 1, 2005.~~ All new supervisory

employees must be provided with the training and education within six months of their assumption of a supervisory position. ~~After January 1, 2006, the District shall provide sexual harassment training and education to each supervisory employee once every two years.~~

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

Training of all staff will be conducted. This includes counselors, faculty, health personnel, law enforcement officers, coaches, and all staff who regularly interact with students. Training for academic staff should emphasize environmental harassment in the classroom. The District will also provide training to students who lead student organizations. The District should provide copies of the sexual harassment policies and training to all District law enforcement unit employees regarding the grievance procedures and any other procedures used for investigating reports of sexual violence.

In years in which a substantive policy or procedural change has occurred, all District employees will attend a training update 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.



## Unlawful Discrimination Complaint Form

Name: \_\_\_\_\_

*Last*

*First*

Address: \_\_\_\_\_

*Street or P.O. Box*

*City*

*State*

*Zip*

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

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

I Wish To Complain Against: \_\_\_\_\_

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

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

*(Nonemployment complaints must be filed within one year of the date of the alleged unlawful discrimination. Employment complaints must be filed within six months of the date of the alleged unlawful discrimination.)*

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

- |   |   |  |
|---|---|--|
| <input type="checkbox"/> Age                | <input type="checkbox"/> Ethnic Group Identification  | <input type="checkbox"/> Physical Disability |
| <input type="checkbox"/> Religion           | <input type="checkbox"/> Ancestry   | <input type="checkbox"/> Mental Disability   |
| <input type="checkbox"/> Race               | <input type="checkbox"/> Sex/Gender (includes Harassment)   |  |
| <input type="checkbox"/> Color              | <input type="checkbox"/> National Origin  | <input type="checkbox"/> *Retaliation        |
| <input type="checkbox"/> Sexual Orientation | <input type="checkbox"/> Perceived to be in protected category or associated with those in protected category |  |

**Clearly state your complaint. Describe each incident of alleged discrimination separately. Attach additional pages as necessary. For each incident provide the following information:**

**1) Date(s) the discriminatory action occurred.**

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**2) Name of individual(s) who discriminated.**

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**3) What happened.**

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**4) Witnesses (if any).**

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**5) Why you believe the discrimination was because of your religion, age, race, sex or whatever basis you indicated above.**

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**\*6) If applicable, explain why you believe you were retaliated against for filing a complaint or asserting your right to be free from discrimination on any of the above grounds.**

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

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

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

Send **Original** to the District, or:                      Chancellor's Office, California Community Colleges  
1102 Q Street  
Sacramento, California 95811-6549  
Attention: Legal Affairs Division



*Reviewed with no recommended changes.*

## **BP 3440 Service Animals**

### **References:**

*The Americans with Disabilities Act of 1990 -- 42 United States Code Sections  
12101 et seq.;*

*28 Code of Federal Regulations Part 35;*

*28 Code of Federal Regulations Part 36;*

*34 Code of Federal Regulations Part 104.44(b)*

In order to prevent discrimination on the basis of disability, the District will allow an individual with a disability to use a service animal or miniature horse in District facilities and on District campuses in compliance with state and federal law.

**See Administrative Procedure #3440.**

Reviewed and Approved by the Board of Trustees: \_\_\_\_\_  
Approved by the Board of Trustees: August 14, 2012

*Reviewed with no recommended changes.*

## **AP 3440 Service Animals**

### **References:**

***Civil Code Sections 54 et seq.;***

***Penal Code Section 365.5;***

***The Americans with Disabilities Act of 1990 -- 42 United States Code Sections 12101 et seq.;***

***28 Code of Federal Regulations Part 35;***

***28 Code of Federal Regulations Part 36;***

***34 Code of Federal Regulations Part 104.44(b)***

***Note:*** ~~*This procedure is legally required.*~~

The District will allow an individual with a disability to use a service animal in District facilities and on District campuses in compliance with state and federal law.

The District will allow an individual with a disability to use a miniature horse as a service animal in District facilities and on District campuses if the miniature horse has been individually trained to do work or perform tasks for the benefit of the individual with a disability and the District has determined, based on the assessment factors provided in this procedure, that a reasonable accommodation can be made.

The District will allow an individual with a disability to be accompanied by his/her service animal in all areas of the District's facilities where members of the public, invitees, clients, customers, patrons, or participants in services, programs or activities, as relevant, are allowed to go.

These procedures shall also be applicable to an individual who is training a service animal.

### **Service Animal Defined**

A "service animal" for purposes of this procedure means any dog (or miniature horse, as provided herein) that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability.

Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition.

The work or tasks performed by a service animal must be directly related to the handler's disability. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition.

### **Exceptions**

The District may ask an individual with a disability to remove a service animal from the premises if:

- The animal is out of control and the animal's handler does not take effective action to control it; or
- The animal is not housebroken.

If a service animal is excluded under one of these exceptions, the District will give the individual with a disability the opportunity to obtain goods, services, and accommodations or to participate in the service, program, or activity without having the service animal on the premises.

### **Assessment Factors for Miniature Horses**

The District shall consider the following factors:

- The type, size, and weight of the miniature horse and whether the facility can accommodate these features;
- Whether the handler has sufficient control of the miniature horse;
- Whether the miniature horse is housebroken; and
- Whether the miniature horse's presence in a specific facility compromises legitimate safety requirements that are necessary for safe operation.

### **Control**

The service animal must have a harness, leash, or other tether, unless either the handler is unable because of a disability to use a harness, leash, or other tether, or the use of a harness, leash, or other tether would interfere with the service animal's safe, effective performance of work or tasks, in which case the service animal must be otherwise under the handler's control (e.g., voice control, signals, or other effective means).

### **Care or Supervision**

The District is not responsible for the care or supervision of the animal.

### **Inquiries by the District**

The District may make two inquiries to determine whether an animal qualifies as a service animal:

- Whether the animal is required because of a disability; and
- What work or task the animal has been trained to perform.

The District will not make either of these inquiries when it is readily apparent that an animal is trained to do work or perform tasks for an individual with a disability (e.g., the dog is observed guiding an individual who is blind or has low vision, pulling a person's wheelchair, or providing assistance with stability or balance to an individual with an observable mobility disability).

An individual may choose to produce a county service dog license or identification tag as proof that the animal is a service animal. Licensure or certification is not required in order to meet the definition of service animal under this procedure. There are no licensing or certification requirements for miniature horses.

### **No Surcharge**

The District will not ask or require an individual with a disability to pay a surcharge, even if people accompanied by pets are required to pay fees, or to comply with other requirements generally not applicable to people without pets. If the District normally charges individuals for

damage caused by pets, an individual with a disability may be charged for damage caused by his or her service animal.

Reviewed and Approved by the Board of Trustees: \_\_\_\_\_  
Approved by the Board of Trustees: July10, 2012