

COLLEGE OF THE SISKIYOU

Procedure Manual

**Title:** Discrimination and Harassment Complaints and Investigations

**Adoption Date:** October 7, 2008

**Revision Date:** November 19, 2013; March 28, 2017; July 2020

**Responsible Area:** Superintendent/President

**Responsible Office:** President's Office

**Policy Reference:** Board Policy 3435; Education Code Section 66281.5, 67386, and 212.5; Government Code 12950.1; Title 2 Section 11023 and 11024; Title 5, Sections 59320, 59324, 59326, 59328, and 59300 et seq.; ~~34 C.F.R. Section 106.8(b)~~

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

**Reporting and Filing Complaints**

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

**Complaints**

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

~~A formal complaint is a written and signed statement filed with the District or the 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/she does not want to file a formal complaint.~~

### Informal Complaints

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

- (1) A written allegation of harassment, discrimination, or retaliation that falls outside the timelines for a formal complaint; or
- (2) A written complaint alleging harassment, discrimination, or retaliation filed by an individual who expressly indicates that he/she/they does not want to file a formal complaint.

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

Upon receipt of an informal complaint, the Associate Vice President, Human Resources will notify the person bringing the informal complaint of his/her/their 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 Associate Vice President, Human Resources shall consider the allegations contained in the informal complaint and determine the appropriate course of action. This may include efforts to informally resolve the matter, or a fact-finding investigation.

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

### Formal Complaints

A formal complaint is a written or verbal statement filed with the District that alleges harassment, discrimination, or retaliation in violation of the District's Board Policies, Administrative Procedures, or in violation of state or federal law. Formal Complaints must be filed with the State Chancellor or the Associate Vice President, Human Resources unless the

party submitting the Formal Complaint alleges discrimination, harassment, or retaliation against the responsible district officer, in which case it should be submitted directly to the Superintendent/President or the State Chancellor.

Formal Complaints ~~should~~ may be submitted on the form prescribed by the State Chancellor of the California Community Colleges. A copy of the form will be available in Human Resources. A Complainant shall report verbal complaints to Associate Vice President, Human Resources. The Associate Vice President, Human Resources shall record the verbal complaint in writing. The Associate Vice President, Human Resources will take steps to ensure the writing accurately reflects the facts alleged by the Complainant.

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

A Formal Complaint must meet each of the following criteria:

- It must allege facts with enough specificity to show that the allegations, if true, would constitute a violation of District policies or procedures prohibiting discrimination, harassment, or retaliation;
- ~~The complainant must sign and date the Formal Complaint;~~
- The Complainant must file any Formal Complaint not involving employment within one year of the date of the alleged discriminatory, harassing, or retaliatory conduct or within one year of the date on which the Complainant knew or should have known of the facts underlying the allegation(s) of discrimination, harassment, or retaliation.
- The Complainant must file any Formal Complaint alleging discrimination, harassment, or retaliation in employment within 180 days of the date of the alleged discriminatory, harassing, or retaliatory conduct, except that this period shall be extended by no more than 90 days following the expiration of the 180 days if the ~~complainant~~ 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 Associate Vice President, Human Resources will promptly return it to the complainant and specify the defect. If the sole defect is that the Formal Complaint was filed outside the applicable proscribed timeline, the Associate Vice President, Human Resources will handle the matter as an informal complaint.

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

The actual investigation of complaints may be assigned by the Associate Vice President, Human

Resources ~~or~~ to other staff or to outside persons or organizations under contract with the District. This shall occur whenever the Associate Vice President, Human Resources is named in the complaint or implicated by the allegations in the complaint.

**Who May File a Complaint:** Any student, employee, parent of a minor, or an individual with legal authority on behalf of a student or employee who believes the student or employee ~~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, parent of a minor, or an individual with legal authority on behalf of a student or employee who believes the student or 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 directed to:-

- the Associate Vice President, Human Resources;
- the Vice President, Student Services;
- the Superintendent/President;
- the State Chancellor's Office.

~~Complainants may but are not required to use the form prescribed by the Chancellor of the California Community Colleges Chancellor's Office website. 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 Associate Vice President, Human Resources and at the State Chancellor's website.

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

- ~~• the Associate Vice President, Human Resources;~~
- ~~• the Vice President, Student Services;~~
- ~~• the Superintendent/President;~~
- ~~• the State Chancellor's Office.~~

### **Employment-Related Complaints**

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

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

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

**Filing a Timely Complaint:** Since failure to report harassment and discrimination impedes the District's ability to stop the behavior, the District strongly encourages anyone who believes they are being harassed or discriminated against, to file a complaint. The District also strongly

encourages the filing of such complaints within 30 days of the alleged incident. While all complaints are taken seriously and will be investigated promptly, delay in filing impedes the District's ability to investigate and remediate.

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

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

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

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

- Consider whether the District can uUndertake efforts to informally resolve the charges, including but not limited to mediation, rearrangement of work/academic schedules; obtaining apologies; providing informal counseling, training, etc.
- Advise the complainant Parties that he/she/they need not participate in an informal resolution of the complaint, as described above, and has-they have the right to end the informal resolution process at any time. Mediation is not appropriate for resolving incidents involving sexual violence.
- Advise a student Ccomplainant 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 Department of Fair Employment and Housing. All Ccomplainants 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 Ccomplainant files a complaint with local law enforcement. In addition, the District should ensure that Ccomplainants are aware of any available resources, such as counseling, health, and mental health services. The Associate Vice President, Human Resources shall also notify the California Community Colleges State Chancellor's Office of the complaint.
- Take interim steps to protect a eCcomplainant from coming into contact with an accused individual, especially if the Ccomplainant is a victim of sexual violence. The Associate Vice President, Human Resources should notify the Ccomplainant 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 Ceomplainant. For example, it is not appropriate to remove Ceomplainants from classes or housing while allowing accused individuals to remain.

### **Investigation**

The Associate Vice President, Human Resources shall:

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

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

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

Investigators will use the following steps: interviewing the complainant(s); interviewing the accused individual(s); identifying and interviewing witnesses and evidence identified by each Pparty; 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 Pparties; reach a conclusion as to the allegations and any appropriate disciplinary and remedial action; and see that all recommended action is carried out in a timely fashion. When the District evaluates the complaint, it shall do so using a preponderance of the evidence standard. Thus, after considering all the evidence it has gathered, the District will decide whether it is more likely than not that discrimination or harassment has occurred.

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

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

### **Written Report**

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

- A description of the circumstances giving rise to the Formal Complaint;
- A 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 occurred based on the preponderance of the evidence standard

- ~~A table of contents if the report exceeds ten pages 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 student and employee Respondents. ~~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 ~~D~~istrict shall complete its investigation and forward a copy of the investigative report and written notice to the Complainant setting forth all of the following: 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 Associate Vice President, Human Resource’s~~ determination ~~of the Associate Vice President, Human Resources~~ as to whether unlawful ~~there is probable cause to believe~~ discrimination occurred with respect to each allegation in the complaint based on a preponderance of the evidence standard;
  - In the event a discrimination allegation is substantiated, a description of actions taken, if any, to prevent similar acts of unlawful discrimination from occurring in the future;
  - ~~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’s Board of Trustees and the California Community Colleges Chancellor’s Office; and
  - In matters involving student sexual misconduct, the Respondent’s right to appeal to the District’s Board of Trustees any disciplinary sanction imposed upon the Respondent.
  - ~~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 formal complaint, the ~~D~~istrict shall complete its investigation and forward a copy or summary of the report to the ~~C~~omplainant, ~~and written notice~~ setting forth all the following ~~to the complainant:~~
  - The ~~determination of the~~ Associate Vice President, Human ~~Resources~~ Resource’s determination as to whether ~~there is probable cause to believe~~ discrimination



occurred with respect to each allegation in the complaint based on the preponderance of the evidence standard;

- If a discrimination allegation is substantiated, a description of actions taken, if any, to prevent similar acts of unlawful discrimination from occurring in the future;~~A description of actions taken, if any, to prevent similar problems from occurring in the future;~~
- The proposed resolution of the complaint; and
- The ~~C~~omplainant's right to appeal to the ~~D~~istrict's Board of Trustees ~~-governing board~~ and to file a complaint with Department of Fair Employment and Housing ~~or the U.S. Equal Employment Opportunity Commission.~~

The District shall also provide the Respondent the following:

- The Associate Vice President, Human Resources's determination as to whether unlawful discrimination occurred with respect to each allegation in the complaint based on the preponderance of the evidence standard;
- 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 and a live hearing conducted by a neutral decision-maker other than the investigator. 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. The neutral third party asking questions shall not exclude any questions unless there is an objection to the question by any individual charged with making a final determination regarding discipline.

### **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 ~~appropriat~~appropriate consistent with state and federal law. 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 ~~e~~Complainant can move safely between classes and activities;

- ensuring that the ~~e~~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 ~~e~~Complainant to re-take a course or withdraw from a class without penalty, including ensuring that any changes do not adversely affect the ~~C~~omplainant's academic record; and
- reviewing any disciplinary actions taken against the ~~complainant~~Complainant to see if there is a causal connection between the harassment and the misconduct that may have resulted in the ~~C~~omplainant being disciplined.

If the District imposes discipline, the nature of the discipline will not be communicated to the ~~complainant~~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 ~~C~~omplainant; for example, the District may inform the ~~C~~omplainant 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 ~~C~~omplainant from further harassment, or discrimination, and to protect the ~~C~~omplainant and witnesses from retaliation as a result of communicating the complaint or assisting in the investigation.

The District will ensure that ~~C~~omplainants and witnesses know how to report any subsequent problems, and should follow-up with ~~complainants~~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 ~~P~~arties 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 ~~C~~omplainant 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 Ceomplainant is not satisfied with the results of the administrative determination, he/she/they may, within ~~fifteen~~30 days, submit a written appeal to the Board of Trustees.

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

The Board shall review the original complaint, the investigative report, the administrative decision, and the appeal. The Board shall issue a final District decision in the matter within 45 days after receiving the appeal. A copy of the decision rendered by the Board shall be forwarded to the Ceomplainant and ~~to the State Chancellor's Office~~the Respondent. The complainant shall also be notified of his/her/their right to appeal this decision.

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

In any case not involving workplace discrimination, harassment, or retaliation, the Ceomplainant shall have the right to file a written appeal with the California Community Colleges State Chancellor's Office within ~~30~~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.

### 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**

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.

### **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.

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

The training and education required by this procedure shall include information and practical guidance regarding the federal and state statutory provisions concerning the prohibition against

and the prevention and correction of sexual harassment and the remedies available to victims of sexual harassment in employment, a review of “abusive conduct,” and harassment based on gender identity, gender expression, and sexual orientation. The training and education shall also include practical examples aimed at instructing supervisors in the prevention of harassment, discrimination, and retaliation, and shall be presented by trainers or educators with knowledge and expertise in the prevention of harassment, discrimination, and retaliation. Supervisor’s harassment training must also address potential exposure and liability for employers and individuals, supervisor’s obligation to report sexual harassment, discrimination, and retaliation when they become aware of it, appropriate remedial measures to correct harassing behavior.

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

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

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

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

### **Education and Prevention for Students**

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

The education programs will also include information aimed at encouraging students to report incidents of sexual violence to the appropriate District and law enforcement authorities. Since victims or third parties may be deterred from reporting incidents if alcohol, drugs, or other violations of District or campus rules were involved, the District will inform students that the

primary concern is for student safety and that use of alcohol or drugs never makes the victim at fault for sexual violence. If other rules are violated, the District will address such violations separately from an allegation of sexual violence.

**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 Associate Vice President, Human Resources, or whom a student or employee could reasonable believe has this authority or duty. The District is on notice if a responsible employee knew, or in the exercise of reasonable care should have known, about the sexual misconduct.~~

~~Any person may make a complaint by contacting the Title IX Coordinator directly. The District's Title IX Coordinator is Associate Vice President, 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 District Associate Vice President, Human Resources should, whenever possible, before a student or employee reveals information that he or she may wish to keep confidential, ensure that the person making the report understands the employees' obligations to report to the Title IX Coordinator, the victims option to request confidentiality, which the District will take into consideration, and the victims ability to share the information confidentially with designated District employees.~~

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

~~Non-professional counselors who work or volunteer in Counseling Services, the National Sexual Assault Network Helpline, the CARE Advocate Resource Center, the Domestic Violence & Crisis Center, the Lesbian Gay Bisexual Transgender Resource Center, including front desk personnel and student employees in the course of their duties, may maintain confidentiality. They are not required to report actual or suspected sexual misconduct to the Title IX Coordinator in a way that identifies the student without the victims consent. See the Title IX Coordinator for contact information for the above mentioned agencies.~~

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

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

**Communicating that the Conduct is Unwelcome:**

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

**Intake and Processing of the Complaint:**

~~The Title IX Coordinator will not use mediation or any similar process to informally resolve a sexual misconduct complaint.~~

**Confidentiality:**

~~Where the victim requests confidentiality or that the District not conduct an investigation, the District will take all reasonable steps to investigate while honoring the request. Where the victim insists that the District not disclose his or 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 60 business 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 will 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 Chancellor's Office:~~**

~~The District considers all sexual misconduct complaints to be formal complaints. The Associate Vice President, Human Resources must notify the State Chancellor's Office of any sexual misconduct complaints. Upon completing the investigation, the District shall forward to the 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, and will be posted on campus and on the District's website.~~

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

### **Training**

~~By January 1, 2006, the District shall provide at least two hours of classroom or other effective interactive training and education regarding sexual harassment to all supervisory employees who are employed as of July 1, 2005. All new supervisory employees must be provided with the training and education within six months of their assumption of a supervisory position. After January 1, 2006, the District shall provide sexual harassment training and education to each supervisory employee once every two years.~~

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

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

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

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

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

### **~~Education and Prevention for Students~~**

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

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