



# College Coordinating Council Meeting

February 22, 2023  
9:30 a.m. – 10:30 a.m.  
L201

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

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

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

## MEETING

Items	Person(s) Responsible	Time	Action
<b>STANDING ITEMS:</b>			
I. Approval of Previous Minutes of February 8, 2023	All	1 minute	
II. Constituent Reports	All	4 minutes	
<b>DISCUSSION/ACTION ITEMS:</b>			
I. BP/AP 3433 – Prohibition of Sexual Harassment	Victoria	10 minutes	Returned from February 8th meeting.
II. AP 3434 – Responding to Harassment	Victoria	10 minutes	Returned from February 8th meeting.
III. AP 3435 – Discrimination & Harassment	Vitoria	2 minutes	Returned from February 8th meeting.
IV. BP/AP 5700 – Intercollegiate Athletics	Jose	2 minutes	Returned from February 8th meeting.
V. AP 5530 – Student Rights and Grievances	Jose	2 minutes	
VI. Representation on the IT Committee	Shami	2 minutes	

### POLICIES OUT FOR CONSTITUENT REVIEW

BP/AP 2105 – Election of Student Member – Out for Constituent Review on January 25, 2023

BP 2200 – Board Duties & Responsibilities - Out for Constituent Review on January 25, 2023  
 BP/AP 2345 – Public Participation at Board Meetings - Out for Constituent Review on January 25, 2023  
 BP/AP 3410 – Nondiscrimination - Out for Constituent Review on January 25, 2023  
 BP/AP 3420 – Equal Employment Opportunity – Out for Constituent Review on February 8, 2023  
 BP/AP 3430 – Prohibition of Harassment – Out for Constituent Review on February 8, 2023

**POLICIES IN PROCESS**

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

**NEXT MEETING DATE: March 22, 2023**



# College Coordinating Council Minutes

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

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

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

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

## MINUTES

Items	Person(s) Responsible	Time	Action
<b>STANDING ITEMS:</b>			
I. Approval of Previous Minutes of January 25, 2023	All	1 minute	Jason stated that he would like the minutes of the January 11, 2023, meeting to include Pamela’s comment that the budget’s reserve continues to increase, that salaries are not increasing and that it is being used as a tool in negotiations. The minutes were approved with the revision and with Tamira abstaining.
II. Constituent Reports	All	4 minutes	There were no reports.
<b>DISCUSSION/ACTION ITEMS:</b>			
I. Calendar Committee – CMSA Representation	Jennifer	2 minutes	There was some discussion about CMSA representation on the Calendar Committee, if the representation is by a department or by CMSA and regarding stacking the committee, carrying additional weight on decisions. Jose confirmed that CMSA is represented, and the President will convey the message back to the individual that

			made the inquiry.	
II.	AP 2712 – Conflict of Interest Code	Jennifer	5 minutes	There was a minor revision of adding the position of Executive Director of Financial & Fiscal Services to the Code. It was agreed to move forward to the next step, which is a 45-day public notice before moving it to the Board of Trustees.
III.	BP/AP 3420 – Equal Employment Opportunity	Victoria	10 minutes	Jason suggested a small revision and it was agreed to go out for constituent review.
IV.	BP/AP 3430 – Prohibition of Harassment	Victoria	10 minutes	There was discussion on the language of romantic relationships being “discouraged.” It was discussed, that although it is not unlawful, it is not professional, and could result in allegations of harassment and possible Title IX issues. There was some discussion around a disruptive working environment and the need for training. It was agreed to go out for constituent review.
V.	BP/AP 3433 – Prohibition of Sexual Harassment	Victoria	10 minutes	Ran out of time, will review at the next meeting.
VI.	AP 3434 – Responding to Harassment	Victoria	10 minutes	Ran out of time, will review at the next meeting.
VII.	AP 3435 – Discrimination & Harassment	Vitoria	2 minutes	There was some discussion on “employees required to report,” and that every employee is mandated to report. There was discussion about how to report, the investigation and that there would need to be an Education Campaign to have a better understanding of roles and responsibilities, including protecting the people who report. Ran out of time and will continue review at the next meeting.
VIII.	BP/AP 5700 – Intercollegiate Athletics	Jose	2 minutes	Ran out of time, will review at the next meeting.

**POLICIES OUT FOR CONSTITUENT REVIEW**

- BP/AP 2105 – Election of Student Member – Out for Constituent Review on January 25, 2023
- BP 2200 – Board Duties & Responsibilities - Out for Constituent Review on January 25, 2023
- BP/AP 2345 – Public Participation at Board Meetings - Out for Constituent Review on January 25, 2023
- BP/AP 3410 – Nondiscrimination - Out for Constituent Review on January 25, 2023

**POLICIES IN PROCESS**

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Decision Making Principle Document	Jennifer	Meeting with various groups on campus for input.
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AP 6370 – Contracts for Personal Services	Shami	
BP/AP 7130 - Compensation	Shami & Legal	
BP/AP 7800 – Emeritus Status (NEW)	Jennifer	Working on revisions.
<b>NEXT MEETING DATE: February 22, 2023</b>		

## BP 3433 Prohibition of Sexual Harassment under Title IX

### References:

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

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

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

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

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

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

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

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

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

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

For non-Title IX matters, also see BP 3410 Nondiscrimination, BP/AP 3420 Equal Employment Opportunity, BP/AP 3430 Prohibition of Harassment, AP 3435 Discrimination and Harassment Complaints and Investigations.

\* CCLC Recommended Language

\*\* AVC Recommended Language

## AP 3433 Prohibition of Sexual Harassment under Title IX

### References:

Title 5 Sections 59320 et seq.;

Title VII of the Civil Rights Act of 1964, 42 U.S. Code Annotated Section 2000e;

Title IX Education Amendments of 1972

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

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

### Definitions

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

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



temporary or permanent mental or physical incapacity. An "object" or "instrument" is anything the offender uses other than the offender's genitalia, e.g., a finger, bottle, handgun, stick.

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

For non-Title IX matters, also see BP 3410 Nondiscrimination, BP/AP 3420 Equal Employment Opportunity, BP/AP 3430 Prohibition of Harassment, AP 3435 Discrimination and Harassment Complaints and Investigations.

\* CCLC Recommended Language

\*\* AVC Recommended Language

## AP 3434 Responding to Harassment Based on Sex under Title IX

Commented [1]: CCLC does not have a BP, only AP

### References:

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

### Introduction

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

### Title IX Coordinator

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

The District's Title IX Coordinator are the:

Assistant Superintendent/Vice President Human Resources, or designee - staff  
3041 West Avenue K  
Lancaster, CA 93536  
661/722-6300  
contacthr@avc.edu

Assistant Superintendent/Vice President Student Services or designee – students  
3041 West Avenue K  
Lancaster, CA 93536  
661/722-6300  
(add SS email here)

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

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

### **Title IX Harassment Complaints, Investigations, and Hearings**

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

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

### **Jurisdictional Requirements – Application of Procedures**

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

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

### **Definitions**

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

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

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

**Consent:** Consent means affirmative, conscious, and voluntary agreement to engage in sexual activity. Both Parties must give affirmative consent to sexual activity. It is the

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

The Respondent's belief that the Complainant consented will not provide a valid defense unless the belief was actual and reasonable, based on the facts and circumstances the Respondent knew, or reasonably should have known, at the time of the incident. A Respondent's belief is not a valid defense where:

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

**Decision-Maker:** Designees from [student services](#), [academic affairs](#) and/or [human resources](#) will oversee the live hearing and make a determination of responsibility. The Decision-Maker cannot be the Title IX Coordinator or the investigator.

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

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

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

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

- A District employee conditions the provision of an aid, benefit, or service of the District on an individual's participation in unwelcome sexual conduct (*quid pro quo* harassment);
- Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the District's education program or activity;

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

- **Stalking:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his/her/their safety or the safety of others or suffer substantial emotional distress.

### **Reporting Options**

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

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

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

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

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

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

### **District Employees and Officials with Authority**

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

The District has designated the following employees as Officials with Authority:

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

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

#### **Intake and Processing of Report**

##### **Receipt of Report**

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

##### **Timeframe for Reporting**

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

##### **Supportive Measures**

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

of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

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

#### **Removal of Respondent Pending Final Determination**

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

#### **Emergency Removal**

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

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

The District's [Title IX Coordinator](#) or designee will conduct the individualized safety and risk analysis.

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

#### **Administrative Leave**



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

### **Formal Complaint Grievance Process**

#### **Notice to Parties**

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

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

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

#### **Dismissal of Formal Complaint**

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

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

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

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

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

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

#### **Consolidation of Formal Complaints**

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

#### **Equitable Treatment of the Parties**

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

#### **Statement of Presumption of Non-Responsibility**

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

#### **Bias or Conflict of Interest**

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

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

### **Timeline for Completion**

The District will undertake its grievance process promptly and as swiftly as possible. The District will complete the investigation and its determination regarding responsibility or the informal resolution process within 240 calendar days.

When appropriate, the Title IX Coordinator may determine that good cause exists to extend the 240 calendar day period to conduct a fair and complete investigation, to accommodate an investigation by law enforcement, to accommodate the unavailability of witnesses or delays by the Parties, to account for District breaks or vacations, or due to the complexity of the investigation. The District will provide notice of this extension to the Complainant and Respondent in writing and include the reason for the delay and anticipated timing of completion.

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

### **Role of Advisor**

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

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

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

### **Confidentiality Agreements**

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

#### **Use of Privileged Information**

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

#### **Student Complainant Requests for Confidentiality**

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

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

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

If the District determines that it must disclose the student-Complainant's identity to the Respondent or proceed with a Formal Complaint, it shall inform the Complainant prior to

making this disclosure or initiating the investigation. The District shall also take immediate steps to provide for the safety of the Complainant where appropriate. In the event the Complainant requests that the District inform the Respondent that the Complainant asked the District not to investigate or seek discipline, the District shall honor this request.

### **Investigations**

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

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

### **Trained Investigators**

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

### **Burden of Gathering Evidence**

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

Student Complainants should be aware that any evidence available but not disclosed during the investigation might not be considered at a subsequent hearing, if a hearing is required under this procedure. Written evidence submitted by a Party is limited to 20 pages or 5,000 words.

### **Evidence of Past Sexual History**

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

- The investigator or Decision-Maker shall not consider the Complainant's prior sexual history unless such questions or evidence is offered to prove that someone other than the Respondent committed the alleged conduct; or
- The investigator or Decision-Maker shall not consider the Complainant's prior sexual behavior unless the questions or evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.
  - Where the investigator or Decision-Maker allows consideration of questions or evidence about a dating relationship or prior or subsequent consensual sexual relations between the Complainant and the Respondent pursuant to

this circumstance, the mere fact that the Complainant and Respondent engaged in other consensual sexual relations with one another is never sufficient, by itself, to establish that the conduct in question was consensual.

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

#### **Notice of Investigative Interview**

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

#### **Evidence Review**

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

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

#### **Investigative Report**

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

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

The investigator will not make a determination regarding responsibility.

The investigator may redact information not directly related to the allegations or privileged information. However, the investigator will keep a log of information he/she/they does not produce to the Parties. The investigator will provide this log only to the Title IX

Coordinator. The Title IX Coordinator will not disclose the log to the Parties but will maintain the log in the Title IX Coordinator's file, in the event it later becomes relevant.

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

### **Hearing**

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

### **Notice**

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

### **Hearing Format**

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

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

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

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

### **Decision-Maker**

The Decision-Maker will be free from conflict of interest or bias, including bias for or against Complainants or Respondents.

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

### **Presenting Witnesses**

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

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

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

### **Cross-Examination**

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

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

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

If a Party or witness does not submit to cross-examination at the live hearing, the Decision-Maker may admit any statement of that Party or witness in reaching a



determination regarding responsibility. The Decision-Maker will give the statements whatever weight the Decision-Maker determines appropriate, bearing in mind that the statements have not been tested by cross-examination. In doing so, the Decision-Maker should consider, and if possible determine, whether the witness or Party made the statement and what the statement proves.

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

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

### **Determinations of Responsibility**

When the Decision-Maker makes a determination of responsibility or non-responsibility, the Decision-Maker will issue a written determination regarding responsibility, no later than 45 business days after the date that the hearing ends.

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

The written determination will include:

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

- A statement of whether the District will provide the Complainant with remedies designed to restore or preserve equal access to the District's education program or activity;
- The District need not disclose to the Respondent remedies that do not affect him/her/them as part of the written determination. The District can inform the Respondent that it will provide remedies to the Complainant. However, the District will inform the Complainant of the sanctions against the Respondent;
- The District's procedures and permissible bases for the Complainant and Respondent to appeal.

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

#### **Disciplinary Sanctions and Remedies**

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

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

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

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

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

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

#### **Grounds for Appeal**

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

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

#### **Appeal Procedure**

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

- Notify the other Party in writing within **10 business days** of receiving a Party's appeal;
- Allow the non-appealing Parties at least **15 business days** from the date of receipt of the appeal to submit a written statement in support of, or challenging, the outcome;

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

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

#### **Informal Resolution**

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

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

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

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

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

#### **Retaliation Prohibited**

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

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

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

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

#### **Training**

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

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

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

#### **File Retention**

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

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

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

For non-Title IX matters, also see [BP 3410 Nondiscrimination](#), [BP/AP 3420 Equal Employment Opportunity](#), [BP/AP 3430 Prohibition of Harassment](#), [AP 3435 Discrimination and Harassment Complaints and Investigations](#).

\* CCLC Recommended Language

\*\* AVC Recommended Language

## AP 3435 Discrimination and Harassment Complaints and Investigations

### References:

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

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

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

### ~~Reporting and Filing Complaints~~

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

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

### ~~Confidential Reporting~~

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

**Commented [1]:** CCLC Note: DFEH Regulations require any employer whose workforce contains 10 percent or more of persons who speak a language other than English as their spoken language to translate its harassment, discrimination, and retaliation policies into every language that is spoken by at least 10 percent (10%) of the workforce. In order to comply with this requirement, Districts should translate BP 3410 Nondiscrimination, BP 3430 Prohibition of Harassment, AP 3410 Nondiscrimination, AP 3430 Prohibition of Harassment, and AP 3435 Discrimination and Harassment Complaints and Investigations into any applicable languages.

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

### **Outreach**

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

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

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

### **Complaints**

~~A formal complaint is a written or verbal statement and signed statement filed with the District or the State California Community Colleges Chancellor's Office that alleges harassment, discrimination, or retaliation in violation of the District's board policies, administrative procedures or in violation of state or federal law. Complaints must be filed with the Assistant Superintendent/Vice President of Human Resources or designee, unless the Party submitting the Complaint alleges discrimination, harassment, or retaliation against the responsible district officer, in which case it should be submitted directly to the President/Superintendent. An informal complaint is any of the following: (1) An unwritten allegation of harassment, discrimination, or retaliation; (2) a written allegation of harassment, discrimination, or retaliation that falls outside the timelines for a formal complaint; or (3) a written complaint alleging harassment, discrimination, or retaliation filed by an individual who expressly~~

indicates that he/she does not want to file a formal complaint.

### **Informal Complaint**

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

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

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

### **Formal Complaints**

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

Formal Complaints should be submitted on the form prescribed by the Chancellor of the California Community Colleges. A copy of the form will be available at the Human Resources Office and on the college's/district's website.

If any party submits a written allegation of harassment, discrimination, or retaliation not on the form described above, the District will seek to have the individual complete and submit



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

The District may request, but shall not require the Complainant to submit a Complaint on the form prescribed by the [Chancellor of the California Community Colleges](#). A copy of the form will be available on the District's [Human Resources website](#). A Complainant shall report a verbal Complaint to the Assistant Superintendent/Vice President of Human Resources. The Assistant Superintendent/Vice President of Human Resources or designee shall record the verbal Complaint in writing. The Assistant Superintendent/Vice President of Human Resources or designee will take steps to ensure the writing accurately reflects the facts alleged by the Complainant.

**Commented [2]:** Embedded hyperlink to CCCCO Office of General Counsel form and on HR website too.

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

**Commented [3]:** CCLC recommends using 'bold'

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

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

### **Oversight of Complaint Procedure**

The Assistant Superintendent/Vice President of Human Resources [or designee](#) is the "responsible District officer" charged with receiving complaints of discrimination or harassment and coordinating their investigation.

The actual investigation of complaints may be assigned by the Assistant Superintendent/Vice President of Human Resources [or designee](#) to other staff or to outside persons or organizations under contract with the District. This shall occur whenever the Assistant Superintendent/Vice President of Human Resources [or designee](#) is named in the complaint or implicated by the allegations in the complaint ~~or if it is deemed more appropriate to have an outside investigator involved.~~

### **Who May File a Complaint**

Any student, employee, ~~parent of a minor, or an individual with legal authority on behalf of a student or employee or third party~~ who believes ~~he/she~~ the student or employee has been discriminated against or harassed by a student, employee, or third party in violation of this procedure and the related policy.

~~A student, employee, or third party who believes he/she has been discriminated against or harassed in violation of these policy and procedures may make a complaint orally or in writing.~~

### **Where to File a Complaint**

~~A student, employee, parent of a minor, or an individual with legal authority on behalf of a student or employee who believes the student or employee has been discriminated against or harassed in violation of these policy and procedures may make a Complaint orally or in writing directed to the Assistant Superintendent/Vice President of Human Resources or designee. If a complainant decides to file a formal written unlawful discrimination or harassment complaint against the District, he/she must file the complaint on a form prescribed by the California Community Colleges Chancellor's Office. These approved forms are available from the Human Resources Office and at the California Community Colleges Chancellor's Office website.~~

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

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

### **Advisers in Student Sexual Harassment Complaints**

~~Student Parties in Complaints involving sexual harassment are permitted to have a support person or adviser accompany him/her/them during any stage of the Complaint process described in this procedure. Student Parties in Complaints involving sexual harassment have~~

the right to consult with an attorney, at his/her/their own expense, at any stage of the Complaint process if he/she/they wishes to do so. An attorney may serve as a support person or adviser.

### **Employment-Related Complaints**

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

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

Any District employee who receives a harassment or discrimination complaint shall notify the Assistant Superintendent/Vice President of Human Resources [or designee](#) immediately.

### **Filing a Timely Complaint**

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

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

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

### **Communicating that the Conduct is Unwelcome**

~~Although it is not required,~~ The District encourages students and staff to let the offending person know immediately and firmly that the conduct or behavior is unwelcome, offensive, in poor taste or inappropriate.

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

Upon receiving notification of a harassment or discrimination complaint, the Assistant Superintendent/Vice President of Human Resources or designee shall:

- ~~Consider whether the District can~~ Undertake efforts to informally resolve the charges, including but not limited to mediation, rearrangement of work/academic

schedules; obtaining apologies; providing informal counseling, training, etc.

- Advise ~~all parties the complainant~~ that he/she/they need not participate in an informal resolution of the complaint, as described above, and has the right to end the informal resolution process at any time. ~~Mediation in all cases is~~ **may be** permitted as long as all parties agree, **except to resolve allegations of sexual violence.**
- Advise a student complainant that he/she/they may file a complaint with the Office of Civil Rights of the U.S. Department of Education and employee complainants may file a complaint with the **California** Department of **Civil Rights Fair Employment and Housing**. All complainants should be advised that they have a right to file a complaint with local law enforcement, if the act complained of is also a criminal act. The District must investigate even if the complainant files a complaint with local law enforcement. In addition, the District should ensure that complainants are aware of any available resources, such as counseling, health, and mental health services. ~~The Assistant Superintendent/Vice President of Human Resources or designee shall also notify the California Community Colleges Chancellor's Office of the complaint.~~
- **In matters involving student sexual harassment, provide student Parties notice regarding appropriate counseling resources developed and maintained by the District.**
- Take interim steps to protect a complainant from coming into contact with an accused individual, especially if the complainant is a victim of sexual violence. The Assistant Superintendent/Vice President of Human Resources **or designee** should notify the complainant of his/her/their options to avoid contact with the accused individual and allow students to change academic situations as appropriate. For instance, the District may prohibit the accused individual from having any contact with the complainant pending the results of the investigation. When taking steps to separate the complainant and accused individual, the District shall minimize the burden on the complainant. For example, it is not appropriate to remove complainants from classes while allowing accused individuals to remain.

**Commented [4]:** CCLC note: Districts cannot allow mediation, even on a voluntary basis, to resolve allegations of sexual violence.

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

#### **Student Complainant Requests for Confidentiality**

**If a student Complainant requests confidentiality when reporting sexual harassment, which could preclude a meaningful investigation or potential discipline of the Respondent, or that no investigation or disciplinary action be pursued to address alleged sexual harassment, the District shall take the request seriously, while at the same time considering its responsibility to provide a safe and nondiscriminatory environment for all students, including for the Complainant. The District shall normally grant the request when possible. In determining**

whether to disclose a Complainant's identity or proceed to an investigation over the objection of the Complainant, the District may consider whether any of the following apply:

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

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

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

### **Investigation**

The Assistant Superintendent/Vice President of Human Resources or designee shall:

- Provide notice to student Parties to a sexual harassment complaint that the District is conducting an investigation. The notice shall include the allegations against the Respondent and the alleged District policy violations under review. If new allegations that arise during the course of the District's investigation that could subject either student Party to new or additional discipline or corrective action, the Assistant Superintendent/Vice President of Human Resources or designee shall provide a supplemental notice to the student parties.
- Authorize the investigation of the complaint, and supervise or conduct a thorough, prompt and impartial investigation of the complaint, as set forth below. Where complainants opt for informal resolution, the designated officer will determine whether further investigation is necessary to ensure resolution of the matter and utilize the investigation process outlined below as appropriate. ~~In the case of a formal complaint, the investigation will include interviews with the complainant.~~ The investigation will

include interviews with the Complainant, the accused, and any other persons who may have relevant knowledge concerning the complaint. This may include victims of similar conduct.

- Review the factual information gathered through the investigation to determine whether the alleged conduct constitutes harassment, or other unlawful discriminatory conduct, giving consideration to all factual information and the totality of the circumstances, including the nature of the verbal, physical, visual or sexual conduct, and the context in which the alleged incidents occurred.

### Investigation of the Complaint

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

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

### Investigation Steps

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

The investigation and adjudication of alleged misconduct under this procedure is not an adversarial process between the complainant, the respondent, and the witnesses, but rather

a process for the District to comply with its obligations under existing law. The complainant does not have the burden to prove, nor does the respondent have the burden to disprove, the underlying allegation or allegations of misconduct.

Investigators will use the following steps:

- Interviewing the complainant(s).
- Interviewing the accused individual(s).
- Identifying and interviewing witnesses and evidence identified by each party.
- Identifying and interviewing any other witnesses, if needed.
- ~~If needed;~~ Reminding all individuals interviewed of the District's no-retaliation policy.
- Consider whether any involved person should be removed from the campus pending completion of the investigation.
- Reviewing personnel/academic files of all involved parties as warranted.
- Reach a conclusion as to the allegations and any appropriate disciplinary and remedial action; and see that all recommended action is carried out in a timely fashion.

When the District evaluates the complaint, it shall do so using a preponderance of the evidence standard. Thus, after considering all the evidence it has gathered, the District will decide whether it is more likely than not that discrimination or harassment has occurred. **Student Complainants should be aware that any evidence available but not disclosed during the investigation might not be considered at a subsequent hearing, if a hearing is required under this procedure.**

#### **Timeline for Completion**

The District will undertake its investigation promptly and swiftly as possible. To that end, the investigator shall complete the above steps, and prepare a written report, **and the District shall notify the complainant and respondent of the outcome** within ninety (90) days of the District receiving the complaint.

#### **Cooperation Encouraged**

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

a complaint is filed. No employee will be retaliated against as a result of lodging a complaint or participating in any workplace investigation.

### Written Report

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

- A description of the circumstances giving rise to the ~~Formal~~ Complaint;
- A description of the procedural steps taken during the investigation, including all individuals contacted and interviewed;
- A summary of the testimony provided by each witness, including the Complainant and any available witnesses identified by the Complainant in the Complaint; ~~interviewed by the investigator;~~
- An analysis of relevant ~~data or other~~ evidence collected during the course of the investigation, including a list of relevant documents;
- A specific finding as to whether ~~each factual allegation in the complaint there is probable cause to believe that discrimination, harassment, or retaliation occurred based on the preponderance of the evidence standard; with respect to each allegation in the complaint; and~~
- A table of contents if the report exceeds ten pages, and
- Any other information deemed appropriate by the District.

### Confidentiality of the Process

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

### Administrative Determination

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

- The ~~President/Superintendent's or his/her/their designee's determination of the Assistant Superintendent/Vice President of Human Resources or~~



~~designee~~ as to whether unlawful discrimination occurred ~~there is probable cause to believe discrimination occurred~~ with respect to each allegation in the complaint based on a preponderance of the evidence standard and the basis for that determination including factual findings;

- In the event a discrimination allegation is substantiated, ~~A~~ a description of actions taken, if any, to prevent similar ~~problems~~ acts of unlawful discrimination from occurring in the future;
- The proposed resolution of the complaint; ~~and~~
- The complainant's right to appeal to the District Board of Trustees and the ~~Chancellor of the~~ California Community Colleges ~~Chancellor's Office~~; and
- In matters involving student sexual misconduct, the Respondent's right to appeal to the District's Board of Trustees any disciplinary sanction imposed upon the Respondent.

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

- The ~~President/Superintendent's or his/her/their designee's determination of the Assistant Superintendent/Vice President of Human Resources or designee~~ as to whether unlawful discrimination occurred ~~there is probable cause to believe discrimination occurred~~ with respect to each allegation in the complaint based on a preponderance of the evidence standard and the basis for that determination including factual findings;
- In the event a discrimination allegation is substantiated, ~~A~~ a description of actions taken, if any, to prevent similar ~~problems~~ acts of unlawful discrimination from occurring in the future;
- The proposed resolution of the complaint; ~~and~~
- ⇨ The complainant's right to appeal to the District Board of Trustees and to file a complaint with the [California Department of Civil Rights](#) ~~Department of Fair Employment and Housing~~ or the ~~U.S. Equal Employment Opportunity Commission~~.

The District shall also provide the respondent the following:

- The President/Superintendent's or his/her/their designee's determination as to whether unlawful discrimination occurred with respect to each allegation in the complaint based on the preponderance of the evidence standard and the basis for that determination including factual findings;

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

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

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

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

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

At the hearing, the other party shall have an opportunity to note an objection to the questions posed. The District may limit such objections to written form, and neither the hearing officer nor the District are obligated to respond, other than to include any objection in the record. The hearing officer shall have the authority and obligation to discard or rephrase any question that the hearing officer deems to be repetitive, irrelevant, or harassing. In making these determinations, the hearing officer is not bound by, but may take guidance from, the formal rules of evidence.

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

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

### **Evidence of Past Sexual History**

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

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

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

### **Discipline and Corrective Action**

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

Possible disciplinary sanctions for student respondents include written or verbal reprimand, required training or counseling, non-academic probation, suspension, and expulsion. Possible disciplinary sanctions for employee respondents include written or verbal reprimand, required training or counseling, reduction in pay, demotion suspension, or discharge as delineated in collective bargaining agreements or policies and procedures.

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

- Providing an escort to ensure that the complainant can move safely between classes and activities;
- Ensuring that the complainant and alleged perpetrator do not attend the same classes or work in the same work area;
- Preventing offending third parties from entering campus;

- Providing counseling services or a referral to counseling services;
- Providing medical services or a referral to medical services;
- Providing academic support services, such as tutoring;
- Arranging for a student-complainant to re-take a course or withdraw from a class without penalty, including ensuring that any changes do not adversely affect the complainant's academic record; and
- Reviewing any disciplinary actions taken against the complainant to see if there is a causal connection between the harassment and the misconduct that may have resulted in the complainant being disciplined.

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

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

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

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

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

#### **Appeals and District Final Decision**

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

If the complainant is not satisfied with the results of the administrative determination, ~~the complainant~~ he/she/they may, within ~~fifteen (15)~~ days, submit a written appeal to the District Board of Trustees.

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

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

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

In any case not involving employment discrimination, harassment, or retaliation, the complainant shall have the right to file a written appeal with the ~~Chancellor of the~~ California Community Colleges ~~Chancellor's Office~~ within ~~thirty (30)~~ days after the Board of Trustees issues ~~d~~ the final District decision or ~~permitted~~ the administrative determination to become final. Such appeals shall be processed pursuant to the provision of Title 5 Section 59350.

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

~~In any case involving employment discrimination, including workplace harassment, the Complainant may, at any time before or after the issuance of the final decision of the District, file a Complaint with the Department of Fair Employment and Housing.~~

**Equal Employment Opportunity Commission**  
Roybal Federal Building  
255 E. Temple Street, 4th Floor  
Los Angeles, CA 90012

<http://www.eeoc.gov>

Office for Civil Rights (OCR)  
**United States Department of Education**  
50 Beale Street, Suite 7200  
San Francisco, CA 94105  
<http://www.ed.gov/offices/OCR>

**Department of Fair Employment and Housing (DFEH)**  
611 West Sixth Street, Suite 1500  
Los Angeles, CA 90047  
<http://www.dfeh.ca.gov/default.asp>

### Remand

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

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

### Extension of Time

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

- ~~• The original complaint;~~
- ~~• The report describing the nature and extent of the investigation conducted by the District;~~
- ~~• A copy of the notice sent to the complainant (pursuant to Government Code Section 59336);~~
- ~~• A copy of the final District decision rendered by the Board of Trustees or a statement indicating the date on which the administrative decision became final~~
- ~~• A copy of the notice to the complainant (pursuant to Government Code Section 59338);~~
- ~~Such other information as the Chancellor of the California Community Colleges may require.~~

A student complainant or respondent may request, in writing, an extension of a deadline related

to a complaint during periods of examinations or school closures. The District shall grant a student party's reasonable request for an extension of a deadline related to a complaint during periods of examinations or school closures.

If the District is unable to comply with the 90-day deadline, the District may extend the time to respond by up to 45 additional days. An extension may be taken only once without permission from the California Community Colleges Chancellor's Office, and must be necessary for one of the following reasons:

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

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

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

#### **Extensions; Failure to Comply**

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

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

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

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

### **Disclosures to the California Community Colleges Chancellor's Office**

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

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

### **Interim and Supportive Measures**

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

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

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

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

### **No-Contact Directives**

When requested by a complainant or otherwise determined to be appropriate, the District shall issue an interim no-contact directive prohibiting the respondent from contacting the complainant during the pendency of the investigation. The District shall not issue an interim mutual no-contact directive automatically, but instead shall consider the specific circumstances of each case to determine whether a mutual no-contact directive is necessary or justifiable to protect the noncomplaining party's safety or well-being, or to respond to



interference with an investigation. If the District issues a no-contact directive after making decision of responsibility, the no-contact directive shall be unilateral and only apply against the party found responsible.

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

### **File Retention**

The District will retain on file for a period of at least ~~three (3)~~ five years after closing the case copies of:

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

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

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

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

#### ~~• **Sexual Misconduct**~~

~~Sexual misconduct includes sexual harassment and sexual violence.~~

- ~~• Sexual harassment may include unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone from or in the work or education setting.~~
- ~~• Sexual violence refers to physical sexual acts perpetrated against a person's will or when a person is incapable of giving consent due to the victim's use of drugs or alcohol or due to an intellectual or other disability. Sexual violence includes rape, sexual assault, sexual battery, and sexual coercion.~~
- ~~• Affirmative consent means an affirmative, conscious, and voluntary agreement to engage in sexual activity.~~

~~Sexual misconduct creates a hostile environment if the conduct is sufficiently serious~~

~~that it interferes with or limits a student's ability to participate in or benefit from the District's program. A single or isolated incident may create a hostile environment if the incident is sufficiently severe.~~

### **Complaint Procedure**

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

~~All responsible employees are required to report all actual or suspected sexual misconduct to the Title IX Coordinator immediately. A responsible employee is any employee who has the authority to take action to redress sexual misconduct, who has been given the duty of reporting incidents of sexual misconduct to the Title IX Coordinator or Assistant Superintendent/Vice President of Human Resources or designee, or whom a student or employee could 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 the Assistant Superintendent/Vice President of Human Resources. The Title IX Coordinator will receive all relevant details about the alleged sexual misconduct reported to the District responsible employee in order to determine what occurred and how to resolve the situation. This includes the names of alleged victim and alleged perpetrator (if known), and the date, time, and location of the alleged sexual misconduct.~~

### **Privileged or Confidential Reporting**

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

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

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

### **Authority over Parties**

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

### **Standard of Proof**

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

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

~~The Title IX Coordinator or designee, will make an immediate assessment concerning the health and safety of the victim and campus community as a whole. The District will provide the reporting party and responding party with immediate, interim measures necessary to protect his/her health and safety. These immediate interim measures may include:~~

- ~~• Providing an escort~~
- ~~• Ensuring that the victim and perpetrator do not attend the same classes or work in the same area~~
- ~~• Preventing offending third parties from entering campus~~
- ~~• Providing counseling services or a referral to counseling services~~
- ~~• Providing academic support services~~

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

### **Communicating that the Conduct is Unwelcome**

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

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

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

### **Confidentiality**

~~Where the victim requests confidentiality regarding a reportable incident the District will take all reasonable steps to comply with the victim’s request or inform the victim when it cannot~~

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

#### **~~Fact-Finding Investigation~~**

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

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

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

#### **~~Reporting to State California Community Colleges Chancellor's Office~~**

~~The District considers all sexual misconduct complaints to be formal complaints. The Assistant Superintendent/Vice President of Human Resources or designee must notify the California Community Colleges Chancellor's Office of any sexual misconduct complaints. Upon completing the investigation, the District shall forward to the California Community Colleges Chancellor's Office a copy of the investigative report and administrative determination and to the complainant a copy or summary of the investigative report and administrative determination.~~

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

~~District Policy and Procedures related to harassment will include information that specifically addresses sexual violence. District policy and procedures will be provided to all students, faculty members, members of the administrative staff and members of the support staff all employees, all volunteers who will regularly interact with students, and each individual or entity under contract with the District to perform any service involving regular interaction~~

with students at the District. ~~and~~ District policy and procedures related to harassment will also be posted on campus and on the District's website.

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

### **Supervisory Employee Training**

By January 1, 2021~~0~~, the District shall provide at least two (~~2~~) hours of classroom or other effective interactive training and education regarding sexual harassment to all supervisory employees and at least one (~~1~~) hour of classroom or other effective interactive training and education regarding sexual harassment to all nonsupervisory employees. All new employees must be provided with the training and education within six months of their assumption of his/her/their position. After January 1, 2021~~0~~, the District shall provide sexual harassment training and education to each employee once every two (~~2~~) years.

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

Supervisor's harassment training must also address potential exposure and liability for employers and individuals, supervisor's obligation to report sexual harassment, discrimination, and retaliation when they become aware of it, appropriate remedial measures to correct harassing behavior. Training for responsible employees must also address the responsible employee's obligation to report sexual harassment and instruction on how to report sexual harassment to the responsible District officer.

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

Commented [5]: Title IX reference

orientation, disability, gender, and gender identity.

The District will maintain appropriate records of the training provided, including the names of the supervisory employees trained, the date of training, sign in sheets, copies of all certificates of attendance or completion issued, the type of training provided, a copy of all written or recorded training materials, and the name of the training provider. If the training is provided by webinar, the District will maintain a copy of the webinar, all written materials used by the training and all written questions submitted during the webinar, and document all written response or guidance the trainer provided during the webinar. The District will retain these records for at least ~~three (3)~~ two years.

#### **Staff and Student Leader Training**

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

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

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

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

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

The education programs will also include information aimed at encouraging students to report incidents of sexual violence to the appropriate District and law enforcement authorities. Since victims or third parties may be deterred from reporting incidents if alcohol, drugs, or other violations of District or campus rules were involved, the District will inform students that the primary concern is for student safety and that use of alcohol or drugs never makes the victim at fault for sexual violence. ~~If other rules are violated, the District will address such violations separately from an allegation of sexual violence.~~ An individual who participates as a complainant or witness in an investigation of sexual assault, domestic violence, dating violence, or stalking will not be subject to disciplinary sanctions for a violation of the District's student conduct policy at or near the time of the incident, unless

the District determines that the violation was egregious, including, but not limited to, an action that places the health or safety of any other person at risk or involves plagiarism, cheating, or academic dishonesty.

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

Approved: 4/14/08  
Revised: 10/12/09  
Revised: 3/10/14  
Revised: 11/14/16  
Revised: 5/14/18  
Revised: 5/13/19  
Revised: 12/9/19

\* CCLC Recommended Language

\*\* AVC Recommended Language



## BP 5700 Intercollegiate Athletics

### References:

Education Code Sections 66271.6, 66271.8, 67360 et seq., 67456, and 78223;  
20 U.S. Code Sections 1681 et seq. ; ACCJC Accreditation Standard II.C.4;  
California Community College Athletic Association (CCCAA) Constitution and  
CCCAA Bylaws

The District shall maintain an organized program for students in intercollegiate athletics. The District will offer opportunities for participation in athletics equally to male, female, **and transgender** students consistent with state and federal law and California Community College Athletic Association (CCCAA) standards

The Superintendent/President shall assure that the athletics program complies with state and federal law, the California Community College Athletic Association (CCCAA) Constitution, Bylaws, and Sport Championship Handbooks, and appropriate Conference Constitution regarding student athlete participation.

See Administrative Procedures 5700 Intercollegiate Athletics.

Adopted: 2/6/06  
Revised: 9/10/07  
Revised: 3/8/21  
Revised: 2/13/23

\*CCLC Recommended Language

\*\*AVC Recommended Language





## AP 5700 Intercollegiate Athletics

### Reference:

Education Code 66271.6, 66271.8, 67360 et seq. and 78223;  
Title IX, Education Amendments of 1972,  
ACCJC Accreditation Standard II.C.4  
Community College Athletic Association (CCCAA) Constitution and CCCAA  
Bylaws

The District shall comply with rules and regulations adopted by voluntary associations, one of whose purposes is to govern intercollegiate athletics, to include the California Community College Athletic Association (CCCAA), Bylaws and Sports Handbooks, and appropriate Conference Constitutions regarding student athlete participation.

### Athletic Drug Testing

The District requires all student athletes to have a sport physical and complete a drug screening. The sports physical must be completed prior to participation in any athletic event. Drug screening may take place randomly, at any time, competition in intercollegiate sports is contemplated by the student athlete throughout the competitive season of sport. This screening is conducted through a medical facility determined by the District.

### Name, Image, Likeness, and Athletic Reputation

**Prospective Student Athlete:** The District will not provide a prospective student athlete with compensation in relation to the athlete's name, image, likeness, or athletic reputation.

**Student Athletes:** The District will not prevent a student participating in intercollegiate athletics from either earning compensation because of the use of the student athlete's name, image, likeness, or athletic reputation, or from obtaining professional representation by duly licensed athletic agents or attorneys. However, a student athlete may not enter into a contract that provides compensation to the student athlete for their name, image, likeness, or athletic reputation if the contract conflicts with a provision of the student athlete's team contract.

A student who enters into a contract providing compensation for use of the student's name, image, likeness, or athletic reputation must disclose the contract to ~~Official to be designated by District, e.g. the Athletic Director/Dean~~. If the District determines that a conflict between the student athlete's contract and the student athlete's team contract, the ~~Athletic Director/Dean~~ ~~Official to be designated by District, e.g. athletic director/dean~~ will disclose the conflict to the student or student's legal representative, if any, and identify the contractual provisions that conflict.

Any team contract entered into, modified, or renewed on or after September 1, 2021, will not prevent a student athlete from using their name, image, likeness, or athletic reputation for a commercial purpose when the athlete is not engaged in official team activities.

A student athlete's scholarship eligibility will not be impacted because of the student earning compensation for their name, image, likeness, or athletic reputation.

The District will not revoke a student-athlete's scholarship that provides the student-athlete with the cost of attendance as a result of the student athlete earning compensation or obtaining legal representation in accordance with state law.

2/6/06

Revised: 9/10/07

Revised: 2/8/21

Revised: 2/13/23

\*CCLC Recommended Language

\*\*AVC Recommended Language

## AP 5530 Student Rights and Grievances

### References:

Education Code Section 76224 subdivision (a);  
ACCJC Accreditation Eligibility Requirement 20;  
ACCJC Accreditation Standard IV.D

The purpose of this procedure is to provide a prompt and equitable means of resolving student grievances. These procedures shall be available to any student who reasonably believes a college decision or action has adversely affected his/her/their status, rights, or privileges as a student. A grievance includes, but is not limited to, claims regarding:

- Sex discrimination as prohibited by Title IX of the Higher Education Amendments of 1972.
- Financial aid
- Course grades, to the extent permitted by Education Code Section 76224 subdivision (a), which provides: "When grades are given for any course of instruction taught in a community college district, the grade given to each student shall be the grade determined by the instructor of the course and the determination of the student's grade by the instructor, in the absence of mistake, fraud, bad faith, or incompetency, shall be final." "Mistake" may include but is not limited to errors made by an instructor in calculating a student's grade and clerical errors. Prior to filing a grievance, students should refer to AP 4231 for the process to request a change of grade.
- The exercise of rights of free expression protected by state and federal constitutions and Education Code Section 76120.

This procedure does not apply to:

- a. Sexual harassment, which is covered under separate Board Policies and Administrative Procedures (AP 3435).
- b. Illegal discrimination, which is covered under separate Board Policies and Administrative Procedures (AP 3435).
- c. Student disciplinary actions, which are covered under separate, Board Policies and Administrative Procedures (AP 5520).
- d. Police citations issued by the Campus Sheriff's Department on campus for violations such as parking and registration, may be appealed through the Campus Sheriff's Department. However, citations issued by off-campus LASD personnel must be appealed through the County Courthouse.

## 1. Definitions:

- a. **Grievant(s)** – A student(s) who has/have filed a grievance.
- b. **Party** – The student or any persons claimed to have been responsible for the student's alleged grievance, together with their representatives. "Party" shall not include the Grievance Hearing Committee or the College Grievance Officer.
- c. **Superintendent/President** – The Superintendent/President or a designated representative of the Superintendent/President.
- d. **Student** – A currently enrolled student, a person who has filed an application for admission to the college, or a former student. A grievance by an applicant shall be limited to a complaint regarding denial of admission. Former students shall be limited to grievances relating to course grades to the extent permitted by Education Code Section 76224 subdivision (a).
- e. **Respondent** – Any person the grievant claims to be responsible for the alleged grievance.
- f. **Day** – Unless otherwise provided, day shall mean a day(s) during when the college ~~is in session and regular classes are held~~, **is open for business during scheduled hours of operation and excludes Saturdays, and Sundays, or college holidays when the college is closed.**

## 2. Informal Resolution

- a. Each student who has a grievance shall make a reasonable effort to resolve the matter on an informal basis prior to requesting a grievance hearing and shall attempt to solve the problem with the person with whom the student has the grievance, that person's immediate supervisor, or the local college administration.
- b. The Superintendent/President or designee shall appoint an employee who shall assist students in seeking resolution by informal means. This person shall be called the Grievance Officer. The Grievance Officer and the student may also seek the assistance of the Associated Student Organization in attempting to resolve a grievance informally.
- c. Informal meetings and discussion between persons directly involved in a grievance are essential at the outset of a dispute and should be encouraged at all stages. An equitable solution should be sought before persons directly involved in the case have stated official or public positions that might tend to polarize the dispute and render a solution more difficult. At no time shall any of the persons directly or indirectly involved in the case use the fact of such informal discussion, the fact that a grievance has been filed, or the character of the informal discussion for the

purpose of strengthening the case for or against persons directly involved in the dispute or for any purpose other than the settlement of the grievance.

- d. Any student who believes he/she/**they** has a grievance shall file a Statement of Grievance with the Grievance Officer within 10 days of the incident on which the grievance is based, or 10 days after the student learns of the basis for the grievance, whichever is later. The Statement of Grievance must be filed whether the student has already initiated efforts at informal resolution, if the student wishes the grievance to become official. Within 10 days following receipt of the Statement of Grievance Form, the Grievance Officer shall advise the student of his/her/**their** rights and responsibilities under these procedures, and assist the student, if necessary, in the final preparation of the Statement of Grievance form.
- e. If at the end of 10 days following the student's first meeting with the Grievance Officer, there is no informal resolution of the complaint which is satisfactory to the student, the student shall have the right to request a grievance hearing.

### **3. Grievance Hearing Committee:**

- a. The Superintendent/President or designee shall at the beginning of each academic year establish a standing panel of 18 members of the college community, including 6 students, 6 faculty members and 6 administrators, from which one or more grievance hearing committees may be appointed. The panel will be established with the advice and assistance of the Associated Students Organization and the Academic Senate, who shall each submit 6 names to the Superintendent/President for inclusion on the panel.
- b. A Grievance Hearing Committee shall be constituted in accordance with the following:
  - It shall include one student, one instructor (two faculty if grievance is regarding a grade), and one college administrator selected from the panel described above.
  - A quorum of three members must be present for the hearing to take place and at least two must be faculty members when it involves grade grievances.
  - No person shall serve as a member of a Grievance Hearing Committee if that person has been personally involved in any matter giving rise to the grievance, has made any statement on the matters at issue, or could otherwise not act in a neutral manner.

All members of the Grievance hearing Committee will be asked to sign a written statement attesting to their neutrality.

- Any party to the grievance may challenge for cause any member of the hearing committee prior to the beginning of the hearing by addressing a challenge to the Superintendent/President or designee who shall determine whether cause for disqualification has been shown. If the Superintendent/President or designee feels that sufficient ground for removal of a member of the committee has been presented, the Superintendent/President or designee shall remove the challenged member or members and substitute a member or members from the panel described above. This determination is subject to appeal as defined below.
- The Grievance Officer shall sit with the Grievance Hearing Committee but shall not serve as a member nor vote. **The Grievance Officer shall coordinate all scheduling of hearings, shall serve to assist all parties and the Hearing Committee to facilitate a full, fair, and efficient resolution of the grievance, and shall avoid an adversary role.**

#### 4. Request for Grievance Hearing

- a. Any request for a grievance hearing shall be filed on a Request for a Grievance Hearing Form within days 10 after filing the Statement of Grievance as described above.
- b. Within 30 days following receipt of the request for grievance hearing, the Superintendent/President or designee shall appoint a Grievance Hearing Committee as described above, and the Grievance Hearing Committee shall meet in private and without the parties present to select a chair and to determine on the basis of the Statement of Grievance whether it presents sufficient grounds for a hearing.
- c. The determination of whether the Statement of Grievance presents sufficient grounds for a hearing shall be based on the following:
  - The statement contains facts which, if true, would constitute a grievance under these procedures.
  - The grievant is a student as defined in these procedures, which include applicants and former students.
  - The grievant is personally and directly affected by the alleged grievance.
  - The grievance was filed in a timely manner.
  - The grievance is not clearly frivolous, clearly without foundation, or clearly filed for purposes of harassment.

- d. If the grievance does not meet each of the requirements, the Grievance Hearing Committee chair shall notify the student in writing of the rejection of the Request for a Grievance Hearing, together with the specific reasons for the rejection and the procedures for appeal. This notice will be provided within 10 days of the date the decision is made by the Grievance Hearing Committee.
- e. Any appeal relating to a Grievance Hearing Committee decision that the Statement of Grievance does not present a grievance as defined in these procedures shall be made in writing to the Superintendent/President or designee within 30 days of that decision. The Superintendent/President or designee shall review the Statement of Grievance and Request for Grievance Hearing in accordance with the requirements for a grievance provided in these procedures but shall not consider any other matters. The Superintendent/President or designee's decision whether or not to grant a grievance hearing shall be final and not subject to further appeal.
- f. If the request for grievance hearing satisfies each of the requirements, the College Grievance Officer shall schedule a grievance hearing. The hearing will begin within 30 days following the decision to grant a grievance hearing. All parties to the grievance shall be given not less than 10 days' notice of the date, time, and place of the hearing.

## 5. Hearing Procedure

- a. The decision of the Grievance Hearing Committee chair shall be final on all matters relating to the conduct of the hearing unless there is a vote of a majority of the other members of the panel to the contrary.
- b. The members of the Grievance Hearing Committee shall be provided with a copy of the grievance and any written response provided by the respondent before the hearing begins.
- c. Each party to the grievance may call witnesses and introduce oral and written testimony relevant to the issues of the matter.
- d. Each party to the grievance shall have the right to confront and cross-examine witnesses.
- e. Formal rules of evidence shall not apply. Any relevant evidence shall be admitted.
- f. Unless the Grievance Hearing Committee determines to proceed otherwise, each party to the grievance shall be permitted to make an opening statement. Thereafter, the Grievant(s) shall make the first presentation, followed by the Respondent(s). The Grievant(s) may present rebuttal evidence after the Respondent(s)' evidence. The burden shall be on the Grievant(s) to prove by substantial evidence that the facts alleged are true and that a grievance has been established as specified above.



- g. Each party to the grievance may represent himself/herself/**themselves** and may also have the right to be represented by a person of his/her/their choice; except that a party shall not be represented by an attorney unless, in the judgment of the Grievance Hearing Committee, complex legal issues are involved. If a party wishes to be represented by an attorney, a request must be presented not less than 10 days prior to the date of the hearing. If one party is permitted to be represented by an attorney, any other party shall have the right to be represented by an attorney. The hearing committee may also request legal assistance through the Superintendent/President; any legal advisor provided to the hearing committee may sit with it in an advisory capacity to provide legal counsel but shall not be a member of the panel nor vote with it.
- h. Hearings shall be closed and confidential unless all parties request that it be open to the public. Any such request must be made no less than 10 days prior to the date of the hearing.
- i. In a closed hearing, witnesses shall not be present at the hearing when not testifying, unless all parties and the committee agree to the contrary.
- j. The hearing shall be recorded by the Grievance Officer either by electric recording or stenographic recording, and this will be the only recording made. No witness who refuses to be recorded may be permitted to give testimony. In the event the recording is by electric recording, the Grievance Hearing Committee Chair shall, at the beginning of the hearing, ask each person present to identify themselves by name, and thereafter shall ask witnesses to identify themselves by name. The electric recording shall remain in the custody of the District, either at the college or the District office, at all times, unless released to a professional transcribing service. Any party may request a copy of the electric recording and/or transcript.
- k. All testimony presented at the hearing must be under oath; the Grievance Hearing Committee Chair will administer the oath. The Grievance Hearing Committee will only admit written statements of witnesses under penalty of perjury if the witness is unavailable to testify. A witness who refuses to be electrically recorded shall be considered to be unavailable.
- l. Within 10 days following the close of the hearing, the Grievance Hearing Committee shall prepare and send to the Superintendent/President or designee a written decision. The decision shall include specific factual findings regarding the grievance and shall include specific conclusions regarding whether the hearing established a grievance as defined above. The decision shall also include a specific recommendation regarding the relief for the grievant(s), if any. The Grievance Hearing Committee will base its decision only on the record of the hearing, and not on matter outside of that record. The record consists of the original grievance, any written response, and the oral and written evidence produced at the hearing.



## 6. Superintendent/President's Decision

- a. Within 10 days following receipt of the Grievance Hearing Committee's decision and recommendation(s), the Superintendent/President shall send to all parties his/her/**their** written decision. The Superintendent/President may accept or reject the findings, decisions, and recommendations of the Grievance Hearing Committee.
- b. The factual findings of the hearing committee shall be accorded great weight; and if the Superintendent/President does not accept the decision or a finding or recommendation of the Grievance Hearing Committee, the Superintendent/President shall review the record of the hearing committee and shall prepare a new written decision which contains specific factual findings and conclusions. The decision of the Superintendent/President shall be final.

## 7. Time Limits

Any times specified in these procedures may be shortened or lengthened if there is mutual concurrence by all Parties.

### Revised:

2/06/06

3/10/08

8/10/15

\*CCLC Recommended Language

\*AVC Recommended Language