

**RSCCD**

**EQUAL EMPLOYMENT OPPORTUNITY  
AND  
HUMAN RESOURCES PLAN**

**(Date)**

# Equal Employment Opportunity and Human Resources Plan

Adopted \_\_\_\_\_

## Regulatory Framework for the Plan

Section 53003(a) of Title 5 of the California Code of Regulations, requires the governing board of each community college district to develop and adopt a district-wide written equal employment opportunity plan to implement its equal employment opportunity program. Such plans and revisions must be submitted to the Chancellor's Office for review and approval. Section 53003(b) requires districts to review their plans at least every three years and, if necessary, revise and submit them to the Chancellor's Office.

In addition to the Title 5 requirements, there are a number of standards and requirements (accreditation standards, board policies, administrative regulations) which influence and shape the manner in which the district manages its human resources. This plan has been designed to move beyond the basic compliance elements dictated by Title 5 and provide a comprehensive planning document which will be a viable planning tool for the district and its colleges.

## Relevant Policies

Two Board Policies primarily reflect the District's commitment to equal employment opportunity and the continued development of a diverse workforce. A third policy prescribes the framework for the district's recruitment and selection processes. The administrative regulations associated with that policy delineate the procedures that are followed for various employee groups.

Those policies are presented below.

### *BP 3420 Equal Employment Opportunity*

#### **References:**

*Title VII of the Civil Rights Act of 1964; Article I, Section 31 of the California Constitution; Title 5 of the California Code of Regulations, Section 53000 et seq.; Education Code Section 87100*

*The Board supports efforts to ensure equal opportunity and sees the value of having a diverse work force. Diversity in the academic environment fosters cultural, social and civic awareness as well as mutual understanding and respect. The Board commits itself to the principle of equal employment through a continuing equal opportunity employment program.*

*The District prohibits discrimination and harassment based on ethnic group identification, national origin, religion, age, sex, race, color, ancestry, sexual orientation, physical or mental disability, gender identity, medical condition (cancer-related or genetic characteristics), marital status, citizenship, or service in the uniformed services, or on the basis of these perceived characteristics or based on association with a person or group with one or more of these actual or perceived characteristics. This Board policy applies to all employment practices, including recruitment, selection, promotion, transfer, salary, training and development, discipline and dismissal.*

*This Board policy prohibits retaliation against any employee or person seeking employment for bringing a complaint of discrimination or harassment pursuant to this policy. This Board policy also prohibits retaliation against a person who assists someone with a complaint of discrimination or harassment, or participates in an investigation or resolution of a complaint of discrimination or harassment.*

*The Chancellor shall develop, for review and adoption by the Board, a plan for equal employment opportunity that complies with California law as from time to time modified or clarified by judicial interpretation.*

*Nothing in this Board policy shall authorize in any plan for equal employment opportunity the setting of numerical goals or quotas, or preferences, in conflict with state law.*

**Revised: August 19, 2013 (Previously BP4104)**

### ***BP 7100 Commitment to Diversity***

**Reference:**

*Education Code Sections 87100 et seq.; Title 5 Sections 53000 et seq. Accreditation Standard IIIA.4*

*The District is committed to employing qualified administrators, faculty, and staff members who are dedicated to student success. The Board recognizes that diversity in the academic environment fosters cultural awareness, promotes mutual understanding and respect, and provides suitable role models for all students. The Board is committed to hiring and staff development processes that support the goals of equal opportunity and diversity, and provide equal consideration for all qualified candidates.*

*Nothing in this Board Policy shall authorize hiring and staff development processes that set numerical goals or quotas, or preferences, in conflict with state law.*

**Adopted October 28, 2013**

## ***BP 7120 Recruitment and Hiring***

### ***Reference:***

*Title VII of the Civil Rights Act of 1964; Article I, Section 31 of the California Constitution, Title 5 of the California Code of Regulations, Section 53000 et seq., 51023.5 Education Code Sections 87100, 87400 and 88000 et seq.; Accreditation Standard III.1.A*

*It is the responsibility of the Chancellor to determine the personnel needs of the District. The Chancellor shall establish procedures for the recruitment and selection of employees including, but not limited to, the following criteria.*

*It is the policy of the Rancho Santiago Community College District to obtain the best qualified administrators, faculty, and staff members who are dedicated to student success. The Board of Trustees supports a competitive selection process for filling vacant positions.*

*It shall be the duty of the Chancellor to see that persons nominated for employment meet all qualifications established by law and/or the Board of Trustees for the position for which nomination is made.*

*Academic employees shall possess the minimum qualifications prescribed for their positions by the Board of Governors.*

*The criteria and procedures for hiring academic employees shall be established and implemented in accordance with board policies and procedures regarding the Academic Senate's role in local decision-making.*

*The criteria and procedures for hiring classified employees shall be established after first affording the appropriate constituent groups an opportunity to participate in the decisions under the Board's policies regarding local decision making.*

*The Chancellor will recommend the appointment of all employees to the Board of Trustees. Employees may be appointed by the Chancellor or delegated agent subject to ratification at the next regular meeting of the Board of Trustees.*

*The authority to assign and/or transfer personnel within the District is delegated to the Chancellor except as such power may be limited by law, District policies, procedures, and collective bargaining agreements.*

***Revised October 28, 2013 (Previously BP4102)***

The specific procedures governing the district's recruitment and selection process are contained in following Administrative Regulations and are incorporated into this plan by reference:

AR 7120.1 Full-time Faculty Recruitment and Hiring

- AR 7120.2 Classified Hiring Procedures (Full-Time and Part-time)
- AR 7120.3 Supervisory/Confidential Staff Hiring
- AR 7120.4 Administrative Recruitment and Employment Regulations

### **Delegation of Responsibility**

The Chancellor is ultimately responsible to the Board of Trustees for ensuring compliance with all district policies and relevant laws and regulations. The following employees are specifically responsible for the implementation and management of the District’s EEO Plan:

<b><u>Employee</u></b>	<b><u>Title</u></b>	<b><u>Responsibilities</u></b>
John Didion	Executive Vice Chancellor, Human Resources & Educational Services	Equal Employment Opportunity Officer; Receipt and Investigation of Complaints
Judy Chitlik	Assistant Vice Chancellor, Human Resources	Day-to-day implementation of the EEO Plan
Elouise Marasigan	Employment Services Manager	Recruitment and Hiring Procedures

### **The Human Resources Committee (EEO Advisory Committee)**

The District’s Human Resources Committee is the participatory governance committee charged with the planning, evaluation and assessment of issues related to human resources. As such, this committee serves an evaluative and advisory role to the administration and the board of trustees with regard to human resources issues including but not limited to the operation of the EEO Plan. As one of the district’s standing participatory governance committees, the Human Resources Committee shall function as the district’s Equal Employment Opportunity Advisory Committee. The committee shall assist in the implementation of this plan in conformance with state and federal regulations and guidelines, monitor equal employment opportunity progress, and provide recommendations for plan revisions as appropriate.

## Complaints

### Complaints Alleging Violation of the Equal Employment Opportunity Regulations (Section 53026).

The District's Equal Employment Opportunity Policy is contained in Board Policy 3420. The district has established the following process permitting any person to file a complaint alleging that the requirements of the equal employment opportunity regulations (California Code of Regulations, title 5, section 53000 et seq) have been violated. Any person who believes that the equal employment opportunity regulations have been violated may file a written complaint describing in detail the alleged violation. All complaints shall be signed and dated by the complainant and shall contain, to the best of the complainant's ability, the names of the individuals involved, the date(s) of the event(s) at issue, and a detailed description of the actions constituting the alleged violation. Complaints involving current hiring processes must be filed as soon as possible after the occurrence of an alleged violation and not later than sixty (60) days after such occurrence unless the complainant can verify a compelling reason for the District to waive the sixty (60) day limitation. Complaints alleging violations of the *Plan* that do not involve current hiring processes must be filed as soon as possible after the occurrence of an alleged violation and not later than ninety (90) days after such occurrence unless the violation is ongoing. A complainant may not appeal the district's determination pursuant to section 53026 to the Chancellor's Office, but under some circumstances, violations of the equal opportunity regulations in title 5 may constitute a violation of a minimum condition for receipt of state aid. In such a case, a complaint can be filed with the Chancellor's Office, but the complainant will be required to demonstrate that he/she made previous reasonable, but unsuccessful, efforts to resolve the alleged violation at the college and/or district level using the process provided by section 53026. (See *California Community Colleges Chancellor's Office Guidelines for Minimum Conditions Complaints* at:

<http://www.cccco.edu/divisions/legal/guidelines/Guidelines%20for%20Minimum%20Conditions%20Complaints.htm>.

The district may return without action any complaints that are inadequate because they do not state a clear violation of the EEO regulations. All returned complaints must include a district statement of the reason for returning the complaint without action.

The complaint shall be filed with the equal employment opportunity officer. If the complaint involves the equal employment opportunity officer, the complaint may be filed with the chief executive officer. To the extent practicable, a written determination on all accepted written complaints will be issued to the complainant within ninety (90) days of the filing of the complaint. The equal employment opportunity officer will forward copies of all written complaints to the Chancellor's Office upon receipt.

In the event that a complaint filed under section 53026 alleges unlawful discrimination, it will be processed according to the requirements of section 59300 et seq.

### **Complaints Alleging Unlawful Discrimination or Harassment (Section 59300 et seq.)**

The District's Nondiscrimination Policy is contained in Board Policy 3410. Complaints of illegal discrimination and harassment must be filed with the Executive Vice Chancellor of Human Resources & Educational Services and will be processed in accordance with Administrative Regulation 3410.

### ***BP 3410 Nondiscrimination***

#### ***References:***

*Education Code Sections 66250 et seq., 72010 et seq., and 87100 et seq.; Title 5 Sections 53000 et seq. and 59300 et seq.; Penal Code Section 422.55; Government Code Sections 12926.1 and 12940 et seq.*

*The District is committed to equal opportunity in educational programs, employment, and all access to institutional programs and activities.*

*The District, and each individual who represents the District, shall provide access to its services, classes, and programs without regard to national origin, religion, age, gender, gender identity, gender expression, race or ethnicity, color, medical condition, genetic information, ancestry, sexual orientation, marital status, physical or mental disability, pregnancy, or because he or she is perceived to have one or more of the foregoing characteristics, or based on association with a person or group with one or more of these actual or perceived characteristics.*

*The Chancellor shall establish administrative procedures that ensure all members of the college community can present complaints regarding alleged violations of this policy and have their complaints heard in accordance with the Title 5 regulations and those of other agencies that administer state and federal laws regarding nondiscrimination.*

*No District funds shall ever be used for membership, or for any participation involving financial payment or contribution on behalf of the District or any individual employed by or associated with it, to any private organization whose membership practices are discriminatory on the basis of national origin, religion, age, gender, gender identity, gender expression, race, color, medical condition, genetic information, ancestry, sexual orientation, marital status, physical or mental disability, or because he or she is perceived to have one or more of the foregoing characteristics, or because of his or her association with a person or group with one or more of these actual or perceived characteristics.*

***Revised October 28, 2013 (Previously BP4119 and BP7300)***

# ***Regulations For Reporting Complaints of Unlawful Discrimination and Sexual Harrassment – AR3410***

***Revised October 10, 2011***

## ***1.0 Definitions***

***1.1 "Appeal" means a request by a complainant made in writing to the Rancho Santiago Community College District governing board pursuant to title 5, section 59338, and/or to the State Chancellor's Office pursuant to title 5, section 59339, to review the administrative determination of the District regarding a complaint of discrimination.***

***1.2 "Association with a person or group with these actual or perceived characteristics" includes advocacy for or identification with people who have one or more characteristics of a protected category listed under "Unlawful Discrimination Policy" and title 5, section 59300, participation in a group associated with persons having such characteristics, or use of a facility associated with use by such persons.***

***1.3 "Complaint" means a written and signed statement meeting the requirements of title 5, section 59328 that alleges unlawful discrimination in violation of the nondiscrimination regulations adopted by the Board of Governors of the California Community Colleges, as set forth at title 5, sections 59300 et seq.***

***1.4 "Days" means calendar days.***

***1.5 "Gender" includes a person's gender identity and gender related appearance and behavior whether or not stereotypically associated with the person's assigned sex at birth.***

***1.6 "Mental disability" includes, but is not limited to, all of the following:***

***(1) Having any mental or psychological disorder or condition, such as mental retardation, organic brain syndrome, emotional or mental illness, or specific learning disabilities, that limits a major life activity. For purposes of this section:***

***(A) "Limits" shall be determined without regard to mitigating measures, such as medications, assistive devices, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.***

***(B) A mental or psychological disorder or condition limits a major life activity if it makes the achievement of the major life activity difficult.***

***(C) "Major life activities" shall be broadly construed and shall include physical, mental, and social activities and working.***

***(2) Any other mental or psychological disorder or condition not described in paragraph (1) that requires specialized supportive services.***

***(3) Having a record or history of a mental or psychological disorder or condition described in paragraph (1) or (2), which is known to the District.***



(4) *Being regarded or treated by the District as having, or having had, any mental condition that makes achievement of a major life activity difficult.*

(5) *Being regarded or treated by the District as having, or having had, a mental or psychological disorder or condition that has no present disabling effect, but that may become a mental disability as described in paragraph (1) or (2).*

*"Mental disability" does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.*

1.7 *"Physical disability" includes, but is not limited to, all of the following:*

(1) *Having any physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss that does both of the following:*

(A) *Affects one or more of the following body systems: neurological, immunological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine.*

(B) *Limits a major life activity. For purposes of this section:*

(i) *"Limits" shall be determined without regard to mitigating measures such as medications, assistive devices, prosthetics, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.*

(ii) *A physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss limits a major life activity if it makes the achievement of the major life activity difficult.*

(iii) *"Major life activities" shall be broadly construed and include physical, mental, and social activities and working.*

(2) *Any other health impairment not described in paragraph (1) that requires specialized supportive services.*

(3) *Having a record or history of a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment described in paragraph (1) or (2), which is known to the District.*

(4) *Being regarded or treated by the District as having, or having had, any physical condition that makes achievement of a major life activity difficult.*

(5) *Being regarded or treated by the District as having, or having had, a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment that has no present disabling effect but may become a physical disability as described in paragraph (1) or (2).*

(6) *"Physical disability" does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.*

1.8 *"District" means the Rancho Santiago Community College District or any District program or activity that is funded directly by the state or receives financial assistance from the state. This includes the District Personnel Commission and any other organization associated with the District or its college(s) that receives state funding or financial assistance through the District.*

1.9 *"Responsible District Officer" means the officer identified by the District to the State Chancellor's Office as the person responsible for receiving complaints filed pursuant to title 5, section 59328, and coordinating their investigation.*

1.10 *"Sexual harassment" is unlawful discrimination in the form of unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone from or in the workplace or in the educational setting, and includes but is not limited to:*

- (1) Making unsolicited written, verbal, physical, and/or visual contacts with sexual overtones. (Examples of possible sexual harassment that appear in a written form include, but are not limited to: suggestive or obscene letters, notes, invitations. Examples of possible visual sexual harassment include, but are not limited to: leering, gestures, display of sexually aggressive objects or pictures, cartoons, or posters.)*
- (2) Continuing to express sexual interest after being informed that the interest is unwelcomed.*
- (3) Making reprisals, threats of reprisal, or implied threats of reprisal following a rebuff of harassing behavior. The following are examples of conduct in an academic environment that might be found to be sexual harassment: implying or actually withholding grades earned or deserved; suggesting a poor performance evaluation will be prepared; or suggesting a scholarship recommendation or college application will be denied.*
- (4) Engaging in explicit or implicit coercive sexual behavior within the work environment which is used to control, influence, or affect the employee's career, salary, and/or work environment.*
- (5) Engaging in explicit or implicit coercive sexual behavior within the educational environment that is used to control, influence, or affect the educational opportunities, grades, and/or learning environment of a student.*
- (6) Offering favors or educational or employment benefits, such as grades or promotions, favorable performance evaluations, favorable assignments, favorable duties or shifts, recommendations, reclassifications, etc., in exchange for sexual favors.*

(7) *Awarding educational or employment benefits, such as grades or duties or shifts, recommendations, reclassifications, etc., to any student or employee with whom the decisionmaker has a sexual relationship and denying such benefits to other students or employees.*

1.11 *"Sexual orientation" means heterosexuality, homosexuality, or bisexuality.*

1.12 *"Unlawful discrimination" means discrimination based on a category protected under title 5, section 59300, including sexual harassment and retaliation.*

## 2.0 *Notice, Training, and Education for Students and Employees*

2.1 *The District's responsible officer shall make arrangements for or provide training to employees and students on the District's unlawful discrimination policy and procedures. Faculty members, members of the administrative staff, and members of the support staff will be provided with a copy of the District's written policy on unlawful discrimination at the beginning of the first quarter or semester of the college year after the policy is adopted.*

2.2 *All District employees will receive this training and a copy of the unlawful discrimination policies and procedures during the first year of their employment. Because of their special responsibilities under the law, supervisors will undergo mandatory training within six months of assuming a supervisory position and biennially thereafter. 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.*

2.3 *A training program or informational services will be made available to all students at least once annually. The student training or informational services will include an explanation of the policy, how it works, and how to file a complaint. In addition, a copy of the District's written policy on unlawful discrimination, as it pertains to students, will be provided as part of any orientation program conducted for new students at the beginning of each quarter, semester, or summer session, as applicable.*

## 3.0 *Informal/Formal Complaint Procedure*

3.1 *When a person brings charges of unlawful discrimination to the attention of the District's responsible officer, that officer will:*

(1) *Undertake efforts to informally resolve the charges;*

(2) *Advise the complainant that he or she need not participate in informal resolution;*

(3) *Notify the person bringing the charges of his or her right to file a formal complaint and explain the procedure for doing so;*

(4) *Assure the complainant that he or she will not be required to confront, or work out problems with, the person accused of unlawful discrimination;*

(5) Advise the complainant that he or she may file a nonemployment-based complaint with the Office for Civil Rights of the U.S. Department of Education (OCR) where such a complaint is within that agency's jurisdiction.

(6) If the complaint is employment-related, the complainant should also be advised that he or she may file a complaint with the U.S. Equal Employment Opportunity Commission (EEOC) and/or the California Department of Fair Employment and Housing (DFEH) where such a complaint is within that agency's jurisdiction.

3.2 Efforts at informal resolution need not include any investigation unless the responsible District officer determines that an investigation is warranted by the seriousness of the charges. Selecting an informal resolution does not extend the time limitations for filing a formal complaint. Efforts at informal resolution may continue after the filing of a formal written complaint, but after a complaint is filed an investigation is required to be conducted pursuant to title 5, section 59334, and will be completed unless the matter is informally resolved and the complainant dismisses the complaint. Even if the complainant does dismiss the complaint, the responsible district officer may require the investigation to continue if he or she determines that the allegations are serious enough to warrant an investigation. Any efforts at informal resolution after the filing of a written complaint will not exceed the 90-day period for rendering the administrative determination pursuant to title 5, section 59336.

3.3 In employment-related cases, if the complainant files with the Department of Fair Employment and Housing, a copy of that filing will be sent to the State Chancellor's Office requesting a determination of whether a further investigation under title 5 is required. Unless the State Chancellor's Office determines that a separate investigation is required, the District will discontinue its investigation under title 5 and the matter will be resolved through the Department of Fair Employment and Housing.

3.4 The District will allow for representation where required by law and may allow for representation for the accused and complainant in other circumstances on a case by case basis.

#### 4.0 Filing of Formal Written Complaint

4.1 If a complainant decides to file a formal written unlawful discrimination complaint against the District, he or she must file the complaint on a form prescribed by the State Chancellor. These approved forms are available from the District and also at the State Chancellor's website, as follows:

<http://www.cccco.edu/divisions/legal/discrimination/discrimination.htm>

The completed form must be filed with the District representative or mailed directly to the State Chancellor's Office of the California Community Colleges.

4.2 Once a complaint is filed, the individual(s) accused of engaging in prohibited discriminatory conduct should be advised of that filing and the general nature of the complaint. This should occur as soon as possible and in a manner that is appropriate under the circumstances. The District will also advise the accused that an assessment of the accuracy of the allegations has not yet been made, that the complaint will be investigated, that the accused will be provided an opportunity to

*present his/her side of the matter, and that any conduct that could be viewed as retaliatory against the complainant or any witnesses must be avoided.*

#### *5.0 Threshold Requirements Prior to Investigation of a Formal Written Complaint*

*5.1 When a formal written complaint is filed it will be reviewed to determine if the complaint meets the following requirements:*

- The complaint must be filed on a form prescribed by the State Chancellor's Office.*
- The complaint must allege unlawful discrimination prohibited under title 5, section 59300.*
- The complaint must be filed by one who alleges that he or she has personally suffered unlawful discrimination or by one who has learned of such unlawful discrimination in his or her official capacity as a faculty member or administrator.*
- In any complaint not involving employment, the complaint must be filed within one year of the date of the alleged unlawful discrimination or within one year of the date on which the complainant knew or should have known of the facts underlying the specific incident or incidents of alleged unlawful discrimination*
- In any complaint alleging discrimination in employment, the complaint shall be filed within 180 days of the date the alleged unlawful discrimination occurred, except that this period will be extended by no more than 90 days following the expiration of that 180 days if the complainant first obtained knowledge of the facts of the alleged violation after the expiration of 180 days.*

*5.2 Additional information about this initial review of complaints can be found in the Guidelines for Processing Formal Title 5 Unlawful Discrimination Complaints prepared by the State Chancellor's Office.*

#### *6.0 Defective Complaint*

*6.1 If a complaint is found to be defective it will be immediately returned to the complainant with a complete explanation of why an investigation will not be initiated under California Code of Regulations, title 5, section 59300 et seq. The notice will inform the complainant that the complaint does not meet the requirements of section 59328, and shall specify in what requirement the complaint is defective. A copy of the notice to the claimant will also be sent to the State Chancellor's Office.*

#### *7.0 Notice to State Chancellor or District*

*7.1 A copy of all complaints filed in accordance with the title 5 regulations will be forwarded to the State Chancellor's Office immediately upon receipt. Similarly, when the State Chancellor's Office receives a complaint a copy will be forwarded to the District.*

#### *8.0 Confidentiality of the Process*

8.1 *Investigative processes can best be conducted within a confidential climate. Therefore, the District does not reveal information about such matters except as necessary to fulfill its legal obligations.*

8.2 *Potential complainants are sometimes reluctant to pursue a complaint if their names will be revealed. The inability to reveal the name of a complainant or facts that are likely to reveal the identity of the complainant can severely limit the ability of the District to respond. Complainants must also recognize that persons who are accused of wrongdoing have a right to present their side of the matter, and this right may be jeopardized if the District is prohibited from revealing the name of the complainant or facts that are likely to disclose the identity of the complainant.*

8.3 *If a complainant insists that his or her name not be revealed, the responsible officer should take all reasonable steps to investigate and respond to the complaint consistent with the complainant's request as long as doing so does not jeopardize the rights of other students or employees.*

8.4 *It is also important that complainants and witnesses understand the possibility that they may be charged with allegations of defamation if they circulate the charges outside of the District's process. In general, persons who are participating in a District investigative or disciplinary process that is related to a charge of discrimination are protected from tort claims such as defamation. However, persons who make allegations outside of these processes or who discuss their claims with persons outside of the process may expose themselves to tort charges. Complainants, witnesses, and those accused of discrimination will all be asked to sign a confidentiality acknowledgement statement.*

8.5 *Where an investigation reveals the need for disciplinary action, the complainant may wish to have information about what disciplinary actions the District took. However, the privacy rights of the persons involved often prevent the District from providing such information. In student disciplinary actions for sexual assault/physical abuse charges, Education Code section 76234 provides that the victim shall be informed of the disciplinary action, but that the victim must keep the information confidential. Disciplinary actions taken against employees are generally considered confidential.*

## 9.0 *Administrative Determination*

9.1 *In any case not involving employment discrimination, within 90 days of receiving an unlawful discrimination complaint filed under title 5, sections 59300 et seq., the responsible District officer will complete the investigation and forward a copy of the investigative report to the State Chancellor, a copy or summary of the report to the complainant, and written notice setting forth all the following to both the complainant and the State Chancellor:*

*(a) the determination of the chief executive officer or his/her designee as to whether there is probable cause to believe discrimination occurred with respect to each allegation in the complaint;*

*(b) a description of actions taken, if any, to prevent similar problems from occurring in the future;*

*(c) the proposed resolution of the complaint; and*

*(d) the complainant's right to appeal to the District governing board and the State Chancellor.*

9.2 *In any case involving employment discrimination, within 90 days of receiving an unlawful discrimination complaint filed under title 5, sections 59300, et seq., the responsible District officer will complete the investigation and forward a copy or summary of the report to the complainant, and written notice setting forth all the following to the complainant:*

*(a) the determination of the chief executive officer or his/her designee as to whether there is probable cause to believe discrimination occurred with respect to each allegation in the complaint;*

*(b) a description of actions taken, if any, to prevent similar problems from occurring in the future);*

*(c) the proposed resolution of the complaint; and*

*(d) the complainant's right to appeal to the District governing board and to file a complaint with the Department of Fair Employment and Housing.*

9.3 *The District will keep these documents on file for a period of at least three years after closing the case, and make them available to the State Chancellor upon request.*

#### 10.0 *Complainant's Appeal Rights*

10.1 *Complainants have appeal rights that they may exercise if they are not satisfied with the results of the District's administrative determination. At the time the administrative determination and summary is mailed to the complainant, the responsible District officer or his/her designee shall notify the complainant of his or her appeal rights as follows:*

10.2 *First level of appeal: The complainant has the right to file an appeal to the District's governing board within 15 days from the date of the administrative determination. The District's governing board will review the original complaint, the investigative report, the administrative determination, and the appeal. The District's governing board will issue a final District decision in the matter within 45 days after receiving the appeal. Alternatively, the District's governing board may elect to take no action within 45 days, in which case the original decision in the administrative determination will be deemed to be affirmed and shall become the final District decision in the matter. A copy of the final decision rendered by the District's governing board will be forwarded to the complainant and to the State Chancellor's Office.*

10.3 *Second level of appeal: The complainant has the right to file an appeal with the California Community College Chancellor's Office in any case not involving employment-related discrimination within 30 days from the date that the governing board issues the final District decision or permits the administrative determination to become final by taking no action within 45 days. The appeal must be accompanied by a copy of the decision of the governing board or evidence showing the date on which the complainant filed an appeal with the governing board, and a statement under penalty of perjury that no response was received from the governing board within 45 days from that date.*

10.4 *Complainants must submit all appeals in writing.*

#### 11.0 *Forward to State Chancellor*

11.1 *In any case not involving employment discrimination, within 150 days of receiving a complaint, the responsible District officer will forward the following to the State Chancellor:*

- *A copy of the final District decision rendered by the governing board or a statement indicating the date on which the administrative determination became final as a result of taking no action on the appeal within 45 days.*
- *A copy of the notice of appeal rights the District sent the complainant.*
- *Any other information the State Chancellor may require.*

11.2 *The District will keep these documents on file for a period of at least three years after closing the case, and in any case involving employment discrimination, make them available to the State Chancellor upon request.*

#### 12.0 *Extensions*

12.1 *If for reasons beyond its control, the District is unable to comply with the 90-day or 150-day deadlines specified above for submission of materials to the complainant and the State Chancellor's Office, the responsible District officer will file a written request that the State Chancellor grant an extension of the deadline. The request will be submitted no later than 10 days prior to the expiration of the deadlines established by title 5 in sections 59336 and/or 59340 and will set forth the reasons for the request and the date by which the District expects to be able to submit the required materials.*

12.2 *A copy of the request for an extension will be sent to the complainant, who will be advised that he or she may file written objections with the State Chancellor within 5 days of receipt.*

12.3 *The State Chancellor may grant the request unless delay would be prejudicial to the investigation. If an extension of the 90-day deadline is granted by the State Chancellor the 150-day deadline is automatically extended by an equal amount.*

#### 13.0 *Record Retention*

13.1 *Unlawful discrimination records that are part of an employee's employment records may be classified as Class-1 Permanent records and retained indefinitely or microfilmed in accordance with title 5, California Code of Regulations, section 59022. Unlawful discrimination records of a student that are deemed worthy of preservation but not classified as Class-1 Permanent may be classified as Class-2 Optional records or as Class-3 Disposable records, to be retained for a period of three years.*

13.2 *Records related to a student discrimination complaint will be deemed worthy of preservation if, at the end of three years after the case is closed, a complaint on similar grounds has been filed against the same employee. In such cases, the records shall continue to be classified as Class 2 records and retained at least until complaints against that particular employee have been resolved.*

**Reference:** Title 5 Sections 49338, 59300 et. seq., 59328, 59338, 59339; Code of Civil Procedure Section 1094.5

**Responsible Manager:** Executive Vice Chancellor of Human Resources & Educational Services



## **Notification to District Employees**

The commitment of the governing board and the Chancellor to equal employment opportunity is emphasized through the broad dissemination of its Equal Employment Opportunity Policy Statement and this plan. The policy statement will be printed in the college catalogs and class schedules. This plan and any subsequent revisions will be distributed to the Board of Trustees, administrators, the academic senate leadership, union representatives and members of the District Human Resources Committee. This plan will be available on the district's website, and when appropriate, may be distributed by e-mail. The Human Resources Department will provide all new employees with a copy of a written notice describing the District's commitment to Equal Employment Opportunity when they commence employment with the district.

## **Training for Screening/Selection Committees**

Any organization or individual, whether or not an employee of the district, who is involved in the recruitment and screening/selection of personnel shall receive appropriate training on the requirements of the title 5 regulations on equal employment opportunity (section 53000 et. seq.); the requirements of federal and state nondiscrimination laws; the requirements of the district's Equal Employment Opportunity Plan; the district's policies on nondiscrimination, recruitment, and hiring; principles of diversity and cultural proficiency; the value of a diverse workforce; and recognizing bias. Persons serving in the above capacities will be required to receive training within the 12 months prior to service. This training is a requirement in order to serve on screening/selection committees. The Employment Services Manager is responsible for providing the required training. Any individual, whether or not an employee of the district, acting on behalf of the district with regard to recruitment and screening of employees, is subject to the equal employment opportunity requirements of Title 5 and the district's Equal Employment Opportunity Plan.

## **Annual Written Notice to Community Organizations**

The equal employment opportunity officer will provide annual notice to appropriate community-based and professional organizations concerning the District's commitment to Equal Employment Opportunity and will include information on where complete copies of this plan can be located.

## **Analysis of District Workforce and Applicant Pool**

Each year the Human Resources Office will survey all employees with respect to gender, ethnic group identification, and disability. The survey shall identify men, women, American Indians or Alaskan natives, Asians or Pacific Islanders, Blacks/African-Americans, Hispanics/Latinos, Caucasians, and persons with disabilities in the following job categories:

- 1) Executive/Administrative/Managerial;
- 2) Faculty and other Instructional Staff;
- 3) Professional Nonfaculty;

- 4) Secretarial/ Clerical;
- 5) Technical and Paraprofessional;
- 6) Skilled Crafts;
- 7) Service and Maintenance.

Similarly, the gender, ethnic group identification, and disability of those who have applied for employment in each of the job categories listed above will be tabulated.

No less than annually, the Human Resources Committee shall review these data and evaluate the effectiveness of the District's recruitment and selection processes as a means of ensuring equal employment opportunity and improving the diversity of the workforce.

### **Other Measures Necessary to Further Equal Employment Opportunity**

The district recognizes that multiple approaches are appropriate to fulfill its mission of ensuring equal employment opportunity and the creation of a diverse workforce. Equal employment opportunity means that all qualified individuals have a full and fair opportunity to compete for hiring and promotion and to enjoy the benefits of employment with the district. Equal employment opportunity should exist at all levels and in all job categories. Ensuring equal employment opportunity also involves creating an environment that fosters cooperation, acceptance, democracy, and free expression of ideas and is welcoming to men and women, persons with disabilities, and individuals from all ethnic and other groups protected from discrimination. To that end, in addition to the steps to address underrepresentation and/or significant underrepresentation, the district will implement a diversity program. Having a campus that has accepted principles of diversity and multiculturalism can make implementation and maintenance of an effective equal employment opportunity program much easier. For that reason, institutionalizing a diversity program that is well planned out, well funded, and supported by the leadership of the district can be of great value. The district will sponsor cultural events and speakers on issues dealing with diversity, and explore how to infuse diversity into the classroom and curriculum. The district will promote the concept of cultural proficiency and it will develop an evaluation form that integrates diversity into the evaluation of employees. The district will also promote learning opportunities and personal growth in the area of diversity and evaluate how the physical environment can be responsive to its diverse employee and student populations. In implementing a diversity program, the district shall do the following:

- 1) Commit to a formal Office of Diversity and diversity program that is part of the structure of the district and that will be adequately funded and supported by the district and campus leadership.<sup>1</sup>

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<sup>1</sup> Districts may look at the Chancellor's Office website for information on Systemwide Commitments to Equity and Diversity. This information may be accessed at [www.cccco.edu](http://www.cccco.edu); click on agency; governmental relations division; equal employment opportunity; equity and diversity taskforce recommendations; and more. The Chancellor's Office has not evaluated the application of specific practices, and inappropriate application could cause a district to violate the law. Additionally, because the information may not have been recently reviewed for consistency with legal requirements, districts should seek the advice of legal counsel when implementing specific practices.

- 2) Conduct campus climate studies to identify hidden barriers.
- 3) Include guest speakers from underrepresented groups who are in leadership positions and who may inspire students and employees alike.
- 4) Highlight the district's equal employment opportunity and diversity policies in job announcements and in its recruitment, marketing, and other publications. Include in job announcements language indicating that candidates are required to demonstrate that they can infuse diversity into their major job duties.
- 5) Conduct diversity dialogues, forums, and cross-cultural workshops.
- 6) Work with the Campus Curriculum Committee to assist in the development of a "Diversity Instructional Tool Kit" as a resource for faculty interested in infusing diversity and multiculturalism into their instruction or services to students.
- 7) Review and revise college/district publications and other marketing tools to reflect diversity in pictures, graphics, and text to project an inclusive image.
- 8) Recognize and value staff and faculty who have promoted diversity and equal employment opportunity principles by awarding a yearly diversity recognition award.
- 9) Require a series of EEO/diversity workshops at all instructional improvement days (flex week or staff development day).
- 10) Evaluate administrators yearly on their ability and efforts to meet the district's equal employment opportunity and diversity efforts.
- 11) Establish an "Equal Employment Opportunity and Diversity" online presence by highlighting the district's diversity and equal employment opportunity, ADA, sexual harassment and nondiscrimination policies, procedures and programs on the district's website. The website will also list contact persons for further information on all of these topics.
- 12) Promote sabbaticals that will assist the district in achieving its equal employment opportunity and diversity objectives.
- 13) Promote various cultural celebrations on campus.
- 14) Recognize multilingualism and knowledge of multiculturalism as a desired, and when appropriate, required skill and qualification for community college employees.
- 15) Have a formal diversity program on campus that is visible, valued and adequately funded.

- 16) Consider providing for alternative educational or experience requirements for nonacademic positions.
- 17) Develop leadership opportunities with current staff focusing on diversity.
- 18) Establish a *Community Outreach Advisory Council* to involve community-based organizations in the recruitment and other equal employment opportunity efforts of the college. Recommended membership will include representatives from local business and industry as well as from diverse community groups such as MALDEF, NAACP, Chamber of Commerce, and City Council(s).
- 19) Ensure that top administrative staff support diversity objectives and that the diversity and/or equal employment opportunity officer position is maintained as a cabinet or other high-level administrative position.
- 20) Seek direct contact with student, professional, community and other organizations that represent the diverse community we serve. These organizations can serve as resources for referring potential candidates.

### **Graduate Assumption Program of Loans for Education**

The district will encourage community college students to become qualified for, and seek employment as, community college employees. The district shall research and inform students about programs that may assist them to complete their graduate studies and become community college employees. The district will post informational flyers on the campuses concerning such programs, and make information available in student newspapers, the course catalog, and in locations accessible to students, including but not limited to, Counseling, Financial Aid, Admissions and Records, the Bookstore, and the Student Center. Efforts will be made to inform graduate students in local colleges and universities about the benefits of employment at a community college.

### **The Human Resources Plan**

Our specific HR plan will be added here: