

Rancho Santiago Community College District
ADMINISTRATIVE REGULATION
Chapter 3
General Institution

AR 3435 Discrimination and Harassment Complaints and Investigations

References:

Education Code Sections 212.5, 231.5, 12950.1, 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;
~~34 Code of Federal Regulations Section 106.8(b)~~

The District is committed to equal opportunity in educational programs, employment, and all access to instructional programs and activities while providing an academic and work environment free of unlawful discrimination and harassment that respects the dignity of all individuals and groups.

This regulation sets forth a procedure for the investigation and resolution of complaints by or against any student or employee within the District. This regulation and the related policy protect students, employees, unpaid interns, and volunteers in connection with all the academic, education, extracurricular, athletic, and other programs of the District, whether those programs take place in the District's facilities, a District vehicle, or at a class or training program sponsored by the District at another location.

For conduct that is defined by the Title IX federal regulations as sexual harassment in an education program or activity against a person in the United States, Complainants must proceed under interim Administrative Regulation 3425 Title IX Sexual Harassment. For other forms of sexual harassment or gender-based harassment, Complainants should use this procedure.

Oversight of Complaint Procedure

~~The District Administrator, Institutional Equity, Compliance & Title IX~~The Assistant Vice Chancellor, Human Resources, Investigations and Equity is the responsible "District Officer" charged with receiving complaints of discrimination, harassment, or retaliation and coordinating their investigation.

The actual investigation of complaints ~~may~~must be assigned to ~~other staff or to a neutral investigator, who may be an~~ outside ~~person~~or internal investigator who is not in the chain of command of the Respondent, not substantially implicated by the allegations in the complaint, and who is otherwise impartial. The District will assign an outside person or ~~organization~~organization under contract with the District. ~~This shall occur~~ whenever the responsible District Officer is named in the complaint or implicated by the allegations in the complaint.

Reporting and Filing Complaints

The law prohibits students, employees, (including but not limited to instructors, coworkers, supervisors, and managers), and third parties from engaging in harassment, discrimination, or retaliation. Any person (e.g., an employee or non-employee of the District) who has suffered harassment, discrimination, or retaliation or who has learned of harassment, discrimination, or retaliation, may file a formal or informal complaint of harassment, discrimination, or retaliation complaint.

Informal Complaints

~~An informal~~ A complaint is: ~~(1) A written or unwritten allegation of harassment, discrimination, or retaliation with a request to engage in the informal process; or (2) a written allegation of harassment, discrimination, or retaliation that falls outside the timelines for a formal complaint.~~

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

verbal

~~Upon receipt of an informal complaint, the Vice Chancellor of Human Resources 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 the individual chooses not to file a formal complaint, or if the alleged conduct falls outside the timeline to file a formal complaint, the Vice Chancellor of Human Resources shall consider the allegations contained in the informal complaint and determine the appropriate course of action. This may include efforts to informally resolve the matter, or a fact-finding investigation.~~

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

Formal Complaints

~~A formal complaint is a written and signed statement filed with the District or the State Chancellor's office that alleges harassment, discrimination, or retaliation in violation of the District's Board Policies, Administrative Procedures board policies, administrative regulations, or in violation of state or federal law.~~

~~Formal complaints must be filed with the Chancellor of the California Community Colleges, or the Vice Chancellor Human Resources. Complaints shall be provided to the responsible District Officer, unless the party submitting the formal complaint alleges discrimination, harassment, or retaliation against the responsible district officer. District Officer, in which case it should be submitted directly to the Office of the Chancellor of the Rancho Santiago Community College District or the State Chancellor's office.~~

~~Formal complaints should be submitted. Any employee receiving a complaint shall immediately notify the responsible District Officer in writing of all pertinent information and facts alleged in the complaint. Online reporting can be found here: www.rsccd.edu/REPORT.~~

~~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 Complainant shall report a verbal complaint to the responsible District Officer, who will record the verbal complaint in writing and take steps to ensure the writing accurately reflects the facts alleged by the Complainant.~~

~~A copy of the form is available at: <http://extranet.cccco.edu/Divisions/Legal/Discrimination.aspx>~~

~~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 as a formal complaint. In no instance will the district reject a written allegation of harassment, discrimination, or retaliation on the basis that it was not submitted on the proper form.~~

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

- ~~• It must allege facts with enough specificity to show that the allegations, if true, would constitute a violation of District policies or procedures state or federal law prohibiting unlawful discrimination, harassment, or retaliation; and~~
- ~~• The complainant must sign and date the Formal Complaint;~~
- ~~• The complainant Complainant must file any Formal Complaint 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 Complainant knew or should have known of the facts underlying the allegation(s) of discrimination, harassment, or retaliation; or~~
- ~~• The complainant Complainant must file any Formal Complaint complaint alleging discrimination, harassment, or retaliation in employment within 180 days of the date of the alleged discriminatory, harassing, or retaliatory conduct, except that this period shall be extended by no more than 90 days following the expiration of the 180 days if the complainant Complainant first obtained knowledge of the facts of the alleged violation after the expiration of the 180 days.~~
- ~~• Complaints that fall outside the above timeline, but that are filed within three (3) years of the alleged act, will be reviewed and the responsible District Officer will determine the appropriate course of action.~~

~~If the Formal Complaint complaint does not meet the requirements set forth above, the Vice Chancellor of Human Resources responsible District Officer will promptly return it to contact the complainant Complainant in writing, within 14 days, and specify the defect. –~~

~~If the sole defect is that the Formal Complaint was filed outside the applicable proscribed timeline, the Vice based on the Complainant's failure to state sufficient facts to support a claim of unlawful discrimination, the District shall offer the Complainant an opportunity to provide additional facts through an intake meeting, which shall be scheduled as soon as reasonably convenient for the parties.~~

~~If, after the intake meeting, the District determines that the complaint still does not meet the requirements set forth above, the responsible District Office shall consider the allegations contained in the complaint and determine the appropriate course of action. This may include efforts to informally resolve the matter, a fact-finding investigation, or dismissing the complaint. The District shall provide the Complainant a written determination explaining the basis for dismissing the complaint within 14 days of the intake meeting.~~

~~In complaints not involving employment, the responsible District Officer must also advise student Complainants of the right to appeal this determination to the Chancellor's Office and in complaints involving employment, advise Complainants to file with the U.S. Equal Employment Opportunity Commission and/or the California Civil Rights Office (formerly known as the Department of Fair Employment and Housing).~~

~~In any complaint dismissed pursuant to the above, a complainant may file a written appeal with the Chancellor within thirty (30) days from the date of the notice of dismissal and provide all relevant, non-privileged documents upon request of the Chancellor of Human Resources will handle the matter as an informal complaint. –~~

Who May File a Complaint

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

Where to File a Formal Complaint

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

- ~~• The Vice Chancellor of Human Resources, 2323 N Broadway, Santa Ana, CA 92706, and/or~~
- ~~• The California Community College Chancellor's Office, 1102 Q Street, Sacramento, CA 95811.~~

~~Student complainants shall be notified that they Complaints may be made orally or in writing directly to the responsible District Officer. Online reporting forms are available at: www.rscdd.edu/REPORT. Complainants may, but are not required, to use the form.~~

~~Complainants filing non-employment-based complaints may file a discrimination complaint with the: –~~

~~U.S. Department of Education, Office ~~for~~ of Civil Rights (OCR), –~~

50 United Nations Plaza, Room 1490, Mail Box 1200 San Francisco, CA 94102 (415) 486-5555.

~~Employee complainants shall be notified that they~~ Complainants filing employment-based complaints may file employment discrimination complaints with either the:

U.S. Equal Employment Opportunity Commission (EEOC) ~~Royal~~:
Roybal Federal Building, 255 East Temple Street, 4th Floor, Los Angeles, CA 90012 ~~or the~~

California Department of Fair Employment and Housing (DFEH), Civil Rights Office (CRO):
2218 Kausen Drive, Suite 100, Elk Grove, CA 95758.

~~Complaints filed with the EEOC and/or the DFEH should be forwarded to the California Community College Chancellor's Office by the District.~~

Any District employee who receives a harassment or discrimination complaint, ~~regardless of whether it is brought by a student or an employee,~~ shall notify the District's Vice Chancellor of Human Resources District Administrator, Institutional Equity, Compliance & Title IX immediately.

~~Immediately upon receiving a Formal Complaint, as described above, regardless of whether the complaint is brought by a student or by an employee, the District shall forward a copy of the Formal Complaint to the California Community College Chancellor's Office.~~

Filing a Timely Complaint

The District is firmly committed to providing an environment free of discrimination and harassment. ~~The~~ Since the 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 as soon as possible after within 30 days of the alleged incident. While all complaints are taken seriously and will be investigated promptly, delay in filing impedes the District's ability to investigate and remediate.

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

The District will investigate complaints involving acts that occur off campus if they are related to or impact a District program or activity, or impact, 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

The District further encourages, but does not require, students and staff to let the offending person know immediately and firmly that the conduct or behavior is unwelcome, offensive, in poor taste and/or inappropriate.

Oversight of Complaint Procedure

~~The Vice Chancellor of Human Resources is the "responsible District officer" charged with receiving complaints of discrimination or harassment, and coordinating their investigation. The actual investigation of complaints may be delegated by the Vice Chancellor of Human Resources to other trained, qualified staff, outside persons or organizations under contract with the District. This must occur whenever the Vice Chancellor of Human Resources is named in the complaint or implicated by the allegations in the complaint.~~

Who May File a Complaint

~~Any person (employee or non-employee), individually or as a member of a class or on behalf of others, may file a complaint alleging discrimination or harassment that is prohibited by the District's anti-discrimination and anti-harassment policies and procedures.~~

Intake and Processing of the Complaint

Upon receiving notification of a harassment or discrimination complaint, the ~~Vice Chancellor of Human Resources or designee~~ responsible District Officer shall:

- ~~Upon approval by the parties involved, and when appropriate, Advise a student Complainant that they may file a complaint with the Office for Civil Rights of the U.S. Department of Education and employee Complainants may file a complaint with the California Civil Rights office (formerly known as the Department of Fair Employment and Housing) or with the federal Equal Employment Opportunity Commission. 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;~~
- 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;~~ and providing informal counseling and/or training, etc.;
- Advise all parties that he/she/they need not participate in an informal resolution of the complaint, as described above, and they have the right to end the informal resolution process at any time. ~~Mediation is not appropriate for resolving incidents involving sexual violence;~~ and
- ~~Advise a student complainant that he/she may file a complaint with the Office for Civil Rights of the U.S. Department of Education and employee complainants may file a complaint with the Department of Fair Employment and Housing. All complainants should be advised that they have a right to file a complaint with local law enforcement. The District must investigate even if the complainant files a complaint with local law enforcement. In addition, the District should ensure that complainants are aware of any available resources, such as counseling, health, and~~

~~mental health services. The Vice Chancellor of Human Resources shall also notify the State Chancellor's Office of the complaint.~~

- Take interim steps to protect a ~~complainant~~Complainant from ~~coming into contact with an accused individual~~encountering the Respondent, especially if the ~~complainant~~Complainant is a victim of sexual violence. ~~The Vice Chancellor of Human Resources should~~responsible District Officer shall notify the ~~complainant~~Complainant of ~~his or her~~their options to avoid contact with the ~~accused individual~~Respondent and allow students to change academic situations, as appropriate. ~~For instance, the District may prohibit the parties~~Parties from having any contact with one another pending the results of the investigation. When taking steps to separate the Complainant and Respondent, the District shall minimize the burden to the extent possible under the circumstances on the Complainant. For example, it is not appropriate to remove Complainants from classes or housing while allowing the Respondent to remain.

Informal Resolution

Informal resolution is a less adversarial manner to resolve complaints than a formal investigation. The District may undertake efforts to informally resolve complaints with the complainant's consent. The District must advise each party that they need not participate in informal resolution.

Efforts at informal resolution may, but need not include an investigation. The responsible District Officer determines when an investigation is warranted.

Efforts at information resolution may continue after a written or verbal complaint is made. The investigation must be completed unless the matter is informally resolved and the complaint is dismissed by the Complainant. The District may proceed with an investigation notwithstanding an informal resolution.

Any efforts at informal resolution after a written or verbal complaint is made shall be completed within ninety (90) days. The timelines under section 59336, subdivision (a) or (b) shall be tolled while the parties are engaged in good faith efforts at informal resolution.

Authorization of an Investigation

The ~~Vice Chancellor of Human Resources or designee~~responsible District Officer shall:

- Authorize the investigation of the complaint, and supervise ~~and~~and/or conduct a thorough, prompt, and impartial investigation of the complaint, as set forth below. ~~Where the parties opt for informal resolution, the designated officer~~responsible 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~~The investigation will include interviews with the ~~complainant~~Complainant, the ~~accused~~Respondent, and any other persons who may have relevant knowledge concerning the complaint. ~~This may include victims of similar conduct;~~and
- Review the factual information gathered through the investigation to determine whether the alleged conduct constitutes harassment, or other unlawful discriminatory conduct, ~~giving consideration to~~considering 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 ~~of harassment or discrimination.~~ No claim of ~~employee workplace~~ or ~~student academic~~ harassment or discrimination shall remain unexamined. This includes complaints involving activities that occur off campus and in connection with any academic, educational, extracurricular, athletic, or other programs of the District, whether those programs take place at a District facility, in a District vehicle, or at a class, ~~or training program or similar event~~ sponsored by the District at another location. 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 parties opt for an informal resolution, the responsible District Officer may limit the scope of the investigation, as appropriate.

~~As set forth above, where the parties opt for an informal resolution, the Vice Chancellor of Human Resources may limit the scope of the investigation, as appropriate.~~ The District will keep the investigation confidential to the extent possible, but cannot guarantee 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~~ Complainant's age; whether there have been other harassment complaints about the same individual; and the ~~accused individual's~~ Respondent'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~~ Complainant if it cannot maintain confidentiality.

Investigation Steps

The District will fairly and objectively investigate harassment and discrimination complaints. ~~Employees designated to serve, as~~ Designated investigators under this policy shall ~~have adequate training~~ be properly trained on what constitutes discrimination, including sexual harassment and sexual violence, racial discrimination, disability discrimination and age discrimination and understand how the District's grievance procedures operate. The investigator ~~may~~ must be neutral and not have any real or perceived conflicts of interest and must be able to investigate the allegations impartially.

Investigators will use the following steps: ~~interviewing~~ interview the ~~complainant~~ Complainant(s); ~~interviewing~~ interview the ~~accused~~ individual Respondent(s); ~~identifying~~ identify and ~~interviewing~~ interview witnesses and evidence identified by each party; ~~identifying~~ identify and ~~interviewing~~ interview any other witnesses, if needed; ~~reminding~~ remind all individuals interviewed of the District's no-retaliation policy; ~~considering~~ consider whether any involved person should be removed from the campus pending completion of the investigation; ~~reviewing~~ review personnel/academic files of all involved parties; ~~reaching~~ and reach a conclusion as to the

~~allegations and any appropriate disciplinary and remedial action; and seeing that all recommended action is carried out in a timely fashion. When the,~~

~~The District evaluates~~will evaluate the complaint,~~it shall do so~~ using a preponderance of the evidence standard.- Thus, after considering all the evidence it has gathered, the District will decide whether it is more likely than not that discrimination or harassment has occurred. _

Timeline for Completion

The District will undertake its investigation as promptly and as swiftly as possible. -To that end, the investigator shall complete the above steps, and prepare a written report within ninety (90) calendar days of the District receiving the complaint,~~unless an extension has been granted. The Vice Chancellor,~~

Extension of Human Resources will notify all Time

~~If the parties involved~~District is unable to comply with the ninety (90) day deadline, the District may extend the time to responded by up to forty-five (45) additional calendar days. Extension may be taken only once without permission from the California Community Colleges Chancellor's Office, and must be necessary for one of the District's 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 ten (10) days prior to the initial time to respond.

The, in writing, District may request additional extensions from the California Community Colleges Chancellor's Office after the initial forty-five (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 Responded may each file a written objection with the California Community Colleges Chancellor's Office within 10 workingfive (5) days of the determination being made-receipt.

Cooperation Encouraged

All students and 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~~Complainant or witnesses does not relieve the District of its obligation to investigate. -The District will ~~conduct an investigation~~investigate if it is discovered that harassment is, or may be occurring, with or without the cooperation of the ~~alleged victim(s)~~Complainant 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.

It is in the best interest of all parties to participate in the resolution process irrespective of when those processes occur, such as when students and/or employees are not active, i.e., summer and winter breaks.

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~~ 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 ~~interviewed by the investigator~~; with information relevant to the allegations, including the Complainant and Respondent;
- An explanation of why an identified potential witness was not interviewed;
- An analysis of relevant data and other evidence collected during the course of the investigation, including a list of relevant documents;
- A specific finding as to whether ~~there is probable cause to believe that discrimination, harassment, or retaliation occurred with respect to each~~ factual allegation in the complaint; ~~and~~ occurred based on the preponderance of the evidence standard;
- 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” ~~may be~~ is essential to a thorough investigation and to protect the rights of ~~accused students and employees~~ the parties during the investigation process and any ensuing discipline.

Administrative Determination

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

- The District's determination of the Vice Chancellor of Human Resources (or designee) as to whether there is probable cause to believe unlawful discrimination occurred with respect to each allegation in the complaint based on a preponderance of the evidence standard;

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- In the event a discrimination allegation is substantiated, 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~~

- In cases not involving employment discrimination, the Complainant's right to appeal to the ~~district governing board~~ District's Board of Trustees and the California Community Colleges Chancellor's Office;

- In cases involving employment discrimination, the employee Complainant's right to file a complaint with the Civil Rights Department (formerly known as the Department of Fair Employment and the Chancellor Housing) or the U.S Equal Employment Opportunity Commission or any Complainant's right to file a compliance with the Office of Civil Rights; and

- In matters involving student sexual misconduct, the Respondent has the right to appeal to the District's Board of Trustees any disciplinary sanctions imposed upon the respondent.

In matters involving an academic employee placed on involuntary paid administrative leave, the District shall complete its investigation within 90 working days of the administrative leave commencing, unless the period of paid leave is extended by agreement of the employee and employer for a period not to exceed 30 additional calendar days.

Discipline for Student Sexual Misconduct Not Subject to Title IX

In a complaint involving student sexual misconduct not subject to Title IX (as defined in interim Administrative Regulation 3425), 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 Respondent to cross-examine witnesses indirectly at a live hearing, either in person or by videoconference and a live hearing conducted by a neutral decision-maker other than the investigator.

The District shall appoint a neutral third party to attend the hearing solely for the purpose of asking any questions to the witnesses. The neutral third-party shall not be the Respondent, the Respondent's representative, or any individual charged with making a final determination regarding discipline. The Respondent may submit written questions before and during the cross-examination, including any follow-up questions. The neutral third-party asking questions shall not exclude any questions unless there is an objection to the question by any individual charged with making a final determination regarding discipline.

Discipline and Corrective Action

If harassment, discrimination, and/or retaliation occurred in violation of federal or state law, ~~the or this~~ policy or procedure, the District may take disciplinary action against the ~~accused~~ Respondent 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. -

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

- ~~providing~~ Providing an escort to ensure that the ~~complainant~~ Complainant can move safely between classes and activities;
- ~~ensuring~~
 - Ensuring that the ~~complainant~~ Complainant and ~~alleged perpetrator~~ Respondent do not attend the same classes or work in the same work area;
- ~~preventing~~
 - Preventing offending third parties from entering campus;
- ~~providing~~
 - Providing counseling services; or referral to counseling services;
- ~~providing~~
 - Providing medical services; or a referral to medical services;
- ~~providing~~
 - Providing academic support services, such as tutoring;
 -
 -
 - arranging Arranging for a ~~student-complainant~~ 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~~ Complainant's academic record; and
- ~~reviewing~~
 - Reviewing any disciplinary actions taken against the ~~complainant~~ Complainant to see if there is a causal connection between the harassment and the ~~conduct~~ misconduct that ~~lead to~~ may have resulted in the ~~discipline~~ Complainant being disciplined;
- ~~conducting~~
 - Conducting, climate surveys, including subsequent evaluation and corrective action, as appropriate;
- ~~circulating~~
 - Circulating memoranda to students and staff about pertinent District policy; and
- ~~other~~
 - Other remedies deemed necessary by the District.

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

Disciplinary/Corrective 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~~Complainant from further harassment, and/or discrimination, and to protect the ~~complainant~~Complainant and witnesses from retaliation as a result of communicating the ~~complaint~~Complaint and/or assisting in the investigation.

The District will ensure that ~~complainants~~Complainant and witnesses know how to report any subsequent problems, and should follow-up with ~~complainants~~Complainant 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 ~~complainant~~Complainant refuses to participate in the investigation, the District ~~should~~shall continue to pursue appropriate steps to limit the effects of the alleged harassment and prevent its recurrence.

Appeals

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

If the ~~complainant~~Complainant is not satisfied with the results of the administrative determination, ~~he or she~~they may, within ~~fifteen~~thirty (30) calendar days of the date of the administrative determination, submit a written appeal to the Board of Trustees. The appeal must be based on one or more of the following grounds:

- defect in the investigation or in procedural compliance;
- new evidence not available during the investigation despite the Complainant's due diligence that would substantially impact the outcome of the investigation; and/or
- misapplication of a policy or an abuse of discretion.

Complainants must specify either the defect, the new evidence and why it was not available during the investigation, which policy was misapplied, and/or how discretion was abused.

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 Board of Trustees within thirty (30) days.

The Board shall review the original ~~complaint~~Complaint, the investigative report, the administrative decision, and the written appeal.- The Board shall issue a final District decision in the matter within forty-five (45) days ~~after~~of receiving the appeal. -A copy of the decision rendered by the Board shall be forwarded to the ~~complainant~~. ~~If the appeal is made to the Board in connection with a formal complaint, the District~~Complainant and the Respondent. The Complainant shall forward a copy of the Board's final~~also be notified of their right to appeal this decision to the State Chancellor's Office.~~

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

In any case not involving workplace discrimination, harassment, or retaliation, ~~a complainant who filed a formal complaint~~the Complainant shall have the right to file a written appeal with the ~~State~~California Community Colleges Chancellor's Office within thirty (30) days after the Board issued the final District decision or permitted the administrative decision to become final. ~~and provide all relevant, non-privileged documents upon request of the Chancellor.~~ Such appeals shall be processed pursuant to the provision of ~~Title 5~~ Section 59350, of Title 5 of the California Code of Regulations.

In any case involving employment discrimination, including workplace harassment, the ~~complainant~~Complainant may, at any time before or after the issuance of the final decision of the District, file a ~~complaint~~Complaint with the U.S. Equal Employment Opportunity Commission (EEOC), ~~Royal Federal Building, 255 East Temple Street, 4th Floor Los Angeles, CA 90012~~ or the ~~California~~Civil Rights Department (formerly known as the Department of Fair Employment and Housing ~~(DFEH), 2218 Kausen Drive, Suite 100 Elk Grove, CA 95758.)~~

In any case involving student discrimination, including harassment, the ~~complainant~~Complainant may, at any time before or after the issuance of the final decision of the District, file a complaint with the U.S. Department of Education, Office for Civil Rights ~~(OCR), 50 United Nations Plaza, Room 1490, Mail Box 1200 San Francisco, CA 94102 (415) 486-5555.~~

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 Complaint'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 sixty (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 thirty (30) days by following the appeal procedures above.

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: 1) the complaint, 2) any investigative report unless subject to the attorney-client privilege; 3) the written notice to the complaint setting forth the results of the investigation; 4) the final administrative decision rendered by the Board or a statement indicating the date upon which the decision became final; 5) a copy of the notification to the Complainant of their appeals right; 6) the Complainant's appeal of the District's administrative determination; and 7) any other non-privileged documents or information the Chancellor request.

The District shall provide to the California Community Colleges Chancellor's Office an annual report with the following information: 1) the number of employment and non-employment discrimination Complaints and informal charges received in the previous academic year; 2) the number of Complaints and informal charges resolved in the previous academic year; 3) the

number of Complaints on unlawful discrimination received in the previous academic year; 4) the number of those Complaints that were sustained in whole or in part; and 5) any other information requested by the Chancellor.

Dissemination of Policy and Procedures

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

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

Training

~~All new-~~

~~The District shall provide at least two hours of classroom or other effective interactive training and education regarding sexual harassment to all supervisory employees and at least one hour of classroom or other effective interactive training and education regarding sexual harassment to all nonsupervisory employees. All new employees must be provided with anti-discrimination training and education within six months of their assumption of a supervisory their position. The District shall provide anti-discrimination training, including sexual harassment training and education, to each supervisory employee once every two years.~~

The training and education required by this procedure shall include information and practical guidance regarding the federal and state statutory provisions concerning the prohibition against and the prevention and correction of ~~discrimination, including~~ sexual harassment and the remedies available to victims of sexual harassment in employment, a review of "abusive conduct," and harassment based on gender identity, gender expression, and sexual orientation.

The training and education shall also include practical examples aimed at instructing supervisors in the prevention of harassment, discrimination, and retaliation, and shall be presented by trainers or educators with knowledge and expertise in the prevention of harassment, discrimination, and retaliation.

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~~prevention of harassment, discrimination, and retaliation.~~ Supervisor's harassment training must also address potential exposure and liability for employers and individuals, supervisor's obligation to report sexual harassment, discrimination, and retaliation when they become aware of it, appropriate remedial measures to correct harassing behavior.

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

The District will also provide training to students who lead student organizations. The District should provide copies of the sexual harassment policies and training to all District Campus ~~Training~~. Safety and Security unit employees regarding the grievance procedures and any other procedures used for investigating reports of sexual violence. In years in which a substantive policy or procedural change has occurred, all District employees will attend a training update or receive a copy of the revised policies and procedures.

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

Education and Prevention for Students

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

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

File Retention

The District will retain on file for a period of at least ~~three~~five (5) 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 parties, of the District's administrative determination and the right to appeal;
- Any appeal;
- The District's final decision; and
- Documentation of any corrective actions taken.

~~The~~For any appeal to the California Community College Chancellor's Office, the District ~~will make such~~shall provide all relevant, non-privileged documents ~~available to the State Chancellor,~~ upon request, to the Chancellor.

Complaint Reporting

The Office of the Chancellor shall provide the Board of Trustees, upon request, a report of complaints filed pursuant to AP 3435. This report must disaggregate the complaints by complaint type (student Complainant and student Respondent, employee Complainant and employee Respondent, etc.). This report must also disaggregate the complaints by the Complainant's race, age, gender, religion, or any other characteristic identified by the Board.

For further Information contact:

Vice Chancellor, Human Resources
2323 N Broadway, Santa Ana, CA 92706
(714) 480-7489

Responsible Manager: Vice-Chancellor of Human Resources

~~Revised: August __, 2023~~

Revised: September 15, 2014 (Previously AR 3410)

Revised: September 19, 2016

Revised: October 2, 2017

Revised: January 28, 2019

Revised: 2021

Revised: March __, 2025