



**PROCEDURE NAME: 3.4 Nondiscrimination**  
**3.6 Prohibition of Harassment**

Reference: Education Code Sections 200 et seq.; 212.5; 66250 et seq.; 66281.5, 72010 et seq.; California Code of Regulations, Title 5, Sections 51023, 53000 et seq.; 59302; 59320 et seq.; 72010 et seq.; Titles VI and VII of the Civil Rights Act of 1964, 42 U.S.C.A § 200e; Title IX of the Education Amendment of 1972; Section 504 of the Rehabilitation Act of 1973; the Fair Employment and Housing Act, California Government Code 11135 et seq.; 12900 et seq., 12940 et seq.; Age Discrimination in Employment Act, and the Americans with Disabilities Act; see also Student Equity, Chapter V-1; Cohen v. San Bernardino Valley College (1995), Accreditation Standards 1.6; 2.2.

**Purpose:** *To establish a strong commitment to prohibit unlawful discrimination and/or harassment in employment and education for students and employees, and to set forth processes for investigating and resolving internal complaints.*

A. General Conditions

1. A copy of the District's nondiscrimination and prohibition of harassment policies and procedures shall be displayed in prominent locations in the main administration building and in other areas where notices regarding the institution's rules, regulations, procedures, and standards of conduct are posted.
2. The Executive Director of Human Resources, or designee, is responsible for providing training to employees and students on the District's nondiscrimination and prohibition of harassment policies and procedures. Supervisors will receive state mandated harassment training as required by Government Code Section 12950.1.
3. Upon hire, every District employee shall receive a copy of the District's nondiscrimination and prohibition of harassment policies and procedures. Within the first year of employment, every District employee shall receive training regarding the District's nondiscrimination and prohibition of harassment policies and procedures. Because of their special responsibilities under the law, all management personnel will undergo mandatory annual training. In years in which a substantive policy or procedural change has occurred, all District employees will attend a training update and receive a copy of the revised policies and procedures.
4. A copy of the District's written policy and procedures will be provided as part of any orientation program conducted for new students at the beginning of each semester. In addition, a training program will be made available to all students at least once

annually. The student training will include an explanation of the nondiscrimination and prohibition of harassment policies and procedures. Students shall also be provided with any revisions to these policies and procedures.

5. The Executive Director of Human Resources, or designee, has the primary delegated responsibility as the compliance officer for the District. An unlawful discrimination / harassment complaint may be filed with the Executive Director of Human Resources, or initiated with any District administrator.

6. Any student or employee who receives a discrimination and/or harassment complaint shall notify the Executive Director of Human Resources immediately.

7. Both the complainant and the respondent shall have the right to be represented throughout the discrimination and/or harassment complaint process.

8. All students and employees are expected to cooperate with a District investigation into allegations of discrimination and/or harassment. Lack of cooperation impedes the ability of the District to investigate thoroughly and respond effectively. It is unlawful for anyone to retaliate against someone who files an unlawful discrimination and/or harassment complaint, who refers a matter for investigation or complaint, who participates in an investigation of a complaint, who represents or serves as an advocate for an alleged victim or alleged offender, who associates with either the accused or the victim, who otherwise engages in any other protected activity, or who furthers the principles of this unlawful discrimination / harassment policy.

9. Upon receipt of a formal complaint filed pursuant to Title 5, the District will forward a copy of the unlawful discrimination / harassment complaint to the State Chancellor's Office.

10. To the extent possible, the District will make efforts to maintain confidentiality throughout the process.

#### B. Filing a Complaint

1. An individual who believes he/she has been discriminated against and/or harassed may make a formal or informal complaint with the Executive Director of Human Resources or any District administrator. The Executive Director of Human Resources may be contacted at (909) 652-6532, Chaffey College, 5885 Haven Avenue, Rancho Cucamonga, CA 91737-3002.

2. Whenever an individual believes that he/she has been discriminated against and/or harassed based on a protected status, the District encourages him/her to inform the respondent that such conduct is offensive and unwelcome. However, this is not a prerequisite to the filing of a formal complaint.

3. The District strongly encourages all employees and students who believe they are being discriminated against and/or harassed to report the matter. The District also strongly encourages the filing of such complaints within thirty (30) days of the alleged incident. All complaints are taken seriously and will be investigated promptly. Failure to report discrimination and/or harassment, including delays in filing, impedes the District's ability to stop the behavior and/or investigate and remediate the situation.

4. All management personnel have a mandatory duty to report incidents of discrimination and/or harassment, whether complained of, reported or observed; the existence of a hostile, offensive or intimidating work environment, and acts of retaliation.

### C. District Investigation

#### 1. Informal Resolution

1.1 The District shall undertake efforts to resolve informally the charges of discrimination and/or harassment. Individuals participating in the informal resolution of a complaint may include the Executive Director of Human Resources, or designee; the complainant, the respondent, and the appropriate manager. The purpose of any meeting shall be to discuss the issues with all parties and to seek appropriate actions to reach an acceptable resolution. The complainant shall be advised that he/she need not participate in the informal resolution.

1.2 At the time the individual files an informal complaint, he/she shall be notified of his/her right to file a formal complaint and the procedures for filing a formal complaint. In addition, all students filing a complaint shall be advised that he/she may also file a complaint with the Office for Civil Rights of the U.S. Department of Education. If the complaint is employment related, the complainant also shall be advised that he/she may file a complaint with the Department of Fair Employment and Housing (DFEH) and/or the U.S. Equal Employment Opportunity Commission (EEOC).

1.3 If a complainant desires an informal resolution, this will not relieve the District of its responsibility to appropriately investigate a claim of discrimination and/or harassment. The District will conduct an impartial investigation if it is discovered that discrimination and/or harassment is or may be occurring with or without the cooperation of the alleged victim(s) and regardless of whether a complaint is filed. The Executive Director of Human Resources, or designee, will exercise his/her discretion in determining the scope of the investigation where an informal resolution is achieved.

1.4 Efforts at informal resolution may continue after the filing of a formal complaint. However, once a formal complaint is filed, an investigation is required and must be completed unless the matter is informally resolved and the complainant dismisses the complaint.

## 2. Formal Resolution

When a formal written complaint is filed, an investigation will be initiated if the complaint meets the following requirements:

2.1 The complaint must allege unlawful discrimination and/or harassment as defined in the District's nondiscrimination and/or prohibition of harassment policies.

2.2 In any complaint not involving employment, the complaint must be filed within one year of the date of the alleged unlawful discrimination and/or harassment or within one year of the date on which the complainant knew or should have known of the facts underlying the allegation of discrimination and/or harassment. In any complaint alleging discrimination and/or harassment in employment, the complaint shall be filed within one hundred and eighty (180) days of the date the alleged unlawful discrimination and/or harassment occurred, except that this period should be extended by no more than ninety (90) days following the expiration of the one hundred and eighty (180) days if the complainant first obtained knowledge of the facts of the alleged violation after the expiration of the one hundred and eighty (180) days.

The Executive Director of Human Resources, or designee, shall:

2.3 Authorize the investigation of the complaint.

2.4 Inform the complainant and the respondent that a confidential investigation is being conducted.

2.5 Include interviews with: (1) the complainant, (2) the respondent, and (3) any other person who reasonably may have relevant knowledge concerning the complaint, such as witnesses for both the complainant and the alleged discriminator and/or harasser.

2.6 Communicate the report of the findings and the administrative determination as to whether discrimination and/or harassment did or did not occur to appropriate persons, including to the complainant and the respondent.

Such report shall include a review of factual information gathered through the investigation to determine whether the alleged conduct constitutes discrimination and/or harassment as defined by state and federal law; would create a hostile environment if permitted to continue; or would

otherwise violate the law of District policies and procedures; giving consideration to all factual information and the totality of the circumstances.

#### D. Administrative Determination

##### 1. Findings and Determination

Within ninety (90) days of receiving a complaint, the District shall complete its investigation and forward the following to the complainant and the respondent:

- 1.1 A copy or summary of the investigative report.
- 1.2 A written notice setting forth the determination of the Superintendent / President as to whether discrimination and/or harassment or other prohibited conduct did or did not occur with respect to each allegation; a summary of administrative action taken, if any; the proposed resolution of the complaint; and the complainant's right to appeal to the District Governing Board, and, if the complaint is non-employment related, the State Chancellor's Office.
- 1.3 In the event that the administrative determination results in a recommendation for disciplinary action, any action shall be conducted in accordance with statutory and constitutional due process requirements.
- 1.4 The District will retain these documents for a period of at least three years after closing the case, and make them available to the State Chancellor upon request.

##### 2. Complainant's Right to Appeal Findings

###### First-Level Appeal

- 2.1 If the complainant is not satisfied with the results of the administrative determination, the complainant may, within fifteen (15) days from the date of the administrative determination, submit a written appeal to the District Governing Board (Note: All appeals must be submitted in writing).
- 2.2 The District's Governing Board will issue a final District determination in the matter within forty-five (45) days after receiving the appeal. However, the District's Governing Board may elect to take no action within that 45 day-period, 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, if the complaint is non-employment related, to the State Chancellor's Office.

## Second-Level Appeal

2.3 If the complaint is non-employment related, the complainant shall have a right to file a written appeal with the State Chancellor's Office within thirty (30) days after the Governing Board issues the final District decision or permits the administrative determination to become final by not taking action within the forty-five (45) day period.

### 3. Forward to the State Chancellor's Office

When required, within one hundred and fifty (150) days of receiving a complaint, the District will forward the following to the State Chancellor's Office: the original complaint; the investigative report; the notice sent to the complainant; 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; a copy of the notice of appeal rights the District sent to the complainant; and any other information the Chancellor may require.

### 4. Extensions

4.1 If the District, for reasons beyond its control, is unable to comply with the ninety (90) day or one hundred and fifty (150) day deadline for submission of materials to the State Chancellor's Office, the District may file a written request that the Chancellor grant an extension of the deadline. The request shall be submitted no later than ten (10) days prior to the expiration of the original deadline and shall set the reasons for the request and the date by which the District expects to be able to submit the required materials.

4.2 A copy of the request for an extension shall be sent to the complainant who may file written objections with the State Chancellor's Office within five (5) days of receipt of the extension request.

4.3 The State Chancellor's Office may grant the request unless delay would be prejudicial to the complainant. If an extension of the ninety (90) day deadline is granted by the Chancellor, the one hundred and fifty (150) day deadline is automatically extended by an equal amount.

4.4 If the District fails to comply with the requirements of the required deadline, including any extension granted pursuant to this section, the State

Chancellor's Office may proceed to review the case based on the original complaint and any other relevant information available.

## 5. Discipline and Corrective Action

- 5.1 If discrimination, harassment and/or retaliation occurred in violation of this policy, the District shall take disciplinary action against that individual and any other remedial action it determines to be appropriate. The action will be prompt, effective, and commensurate with the severity of the offense. If discipline is imposed, the nature of the discipline will not be communicated to the complainant.
- 5.2 Disciplinary actions against students, administrators, faculty and staff members will conform to all relevant statutes, regulations, personnel policies and procedures, including the provisions of any applicable collective bargaining agreement.
- 5.3 The District shall also take reasonable steps to protect the complainant from further discrimination and/or harassment and to protect the complainant and witnesses from retaliation as a result of communicating the complaint and/or assisting in the investigation. 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.

## 6. Right to Privacy

If an employee is dismissed as a result of a discrimination and/or harassment charge, in accordance with applicable state and federal rules and regulations, confidentiality shall be maintained as to the dismissal and the reasons therefore.

In a disciplinary action for a sexual assault/physical abuse charge, the victim shall be informed of the results of the disciplinary action, but the victim shall keep that information confidential. Persons provided with protected information in conjunction with a discrimination and/or harassment complaint may be required to sign a confidentiality agreement.

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