

College Council: Policy and Procedure Review

9-10-2024

BP 2431 Superintendent/President Selection - Reviewed as part of the regular cycle of review. Compared to the CCLC policy and this is linked to accreditation and required. No substantive changes.

BP 3433 Prohibition of Sexual Harassment Under Title IX – Title changed to “Prohibition of Sex Discrimination Under Title IX”. CCLC updated this legally required policy over the summer to update the title and align with the requirements of the 2024 Title IX regulations.

BP 3570 Smoke-Free Learning and Working Environment - Reviewed as part of the regular review process and compared to CCLC model policy. Formatting and non-substantive edits.

BP 3600 Auxiliary Organizations - Reviewed as part of the regular review process and compared to legally required CCLC model policy. Formatting updated and non-substantive edits.

BP 3820 Gifts - Reviewed as part of the regular review process and compared to legally advised CCLC model policy. Formatting updated and non-substantive edits.

BP 3840 Fund Raising - Reviewed as part of the regular review process. There is no CCLC model policy for comparison. Formatting updated and non-substantive edits.

BP 4100 Graduation Requirements for Degrees and Certificates - The corresponding AP 4100 was updated 10/17/2023 to align with Title 5 revisions. Formatting updated. This was compared to the legally required CCLC model policy.

BP 4110 Honorary Degrees - Reviewed as part of the regular review process and compared to CCLC model policy. This is only required if the District has honorary degrees. Formatting and non-substantive edits.

BP 4231 Grade Changes - Reviewed as part of the regular review process. Compared to the legally required CCLC model policy. Formatting updated and non-substantive edits. This is a 10+1.

BP 4240 Academic Renewal - To Academic Senate at their request. Reviewed and made no changes.

BP 5400 Associated Students Organization - Reviewed as part of the regular review process and compared to the legally required CCLC model policy. Formatting and non-substantive edits.

BP 6100 Delegation of Authority - Reviewed as part of the regular review process and compared to the legally required CCLC model policy. Formatting updated and non-substantive edits. Ensured the language reflects current practices.

BP 6307 Debt Issuance and Management - Reviewed as part of the regular review process. Compared to the legally required CCLC model policy if District issues debt. Our language mirrors the CCLCs. Formatting updated and non-substantive edits.

BP 6320 Investments - Reviewed as part of the regular review process. Compared to the legally advised CCLC model policy. Our language mirrors the CCLCs. No changes. Formatting updated and non-substantive edits.

BP 6400 Financial Audits - Reviewed as part of the regular review process. Compared to the legally required CCLC model. Our language tracks the CCLC's language. Formatting updated and non-substantive edits. Confirmed process is still practiced.

BP 6450 Wireless or Cellular Phone Use - Reviewed as part of the regular review process. Compared to the legally advised CCLC model. Our language omitted the below CCLC's language. Formatting updated and edits as shown

BP 6500 Property Management - Reviewed as part of the regular review process and compared to the legally required CCLC model. Our language tracks the CCLC's language except COM has added the last contract sentence. Formatting updated.

BP 6900 Bookstore - Reviewed as part of the regular review process. Compared to the legally required CCLC model. Our language tracks the CCLC's language except COM has added the last contract sentence. Formatting updated.

BP 7290 In-State Employment (NEW) - To CSEA, SEIA and UPM on 12-11-2023 and 4-11-2024.

BP 7385 Salary Deductions - Reviewed as part of the regular cycle of review. Compared to model CCLC policy and this is legally required. Language is parallel to the model policy.

AP 3430 Prohibition of Harassment - CCLC updated this legally required procedure with references to BP 3433 Prohibition of Sex Discrimination under Title IX, AP 3433 Prohibition of Sex Discrimination under Title IX, and AP 3434 Responding to Sex Discrimination under Title IX and clarify to whom the procedure applies.

AP 3433 Prohibition of Sexual Harassment Under Title IX - This procedure was revised to update the title, add a definition for sex discrimination under Title IX, and revise the definition of sex-based harassment under Title IX to align with the requirements of the 2024 Title IX regulations.

AP 3434 Responding to Harassment Based on Sex under Title IX - This legally required procedure was revised to update the title and align the grievance processes with the requirements of the 2024 Title IX regulations.

AP 3435 Discrimination and Harassment Procedures - This legally required procedure was revised to update references to BP 3433 Prohibition of Sex Discrimination under Title IX, AP 3433 Prohibition of Sex Discrimination under Title IX, and AP 3434 Responding to Sex Discrimination under Title IX.

AP 3540 Sexual and Other Assaults on Campus - This legally required procedure was revised to update references to AP 3434 Responding to Sex Discrimination under Title IX. Non-substantive revision.

AP 4105 Distance Education - CCLC 43 updated this procedure to add a legal citation and align with revised Title 5 regulations. There is also some language that looks like it should be removed that was left in by Academic Senate accidentally. This is a 10+1.

AP 5040 Student Records and Directory Information - CCLC 43 updated this procedure to provide a timeline for the district to respond to a request for student records pursuant to the Education Code. This is a 10+1.

AP 7212 Temporary Faculty - This legally advised procedure is due for review as part of the regular review process. Compared to CCLC model procedure. There were updates in 2016 and 2018. Mirrors CCLC up to "Recruitment Process". Removed "quarter" references since COM schedules on semester basis. Formatting updated and HR track changes implemented. This is a 10+1.

AP 7380 Retiree Health Benefits – This procedure is due for review as part of the regular review cycle. Legally advised model CCLC reviewed for comparison. No Changes beyond formatting.

For current Board Policies and Administrative Procedures that are posted online please see [Policies & Procedures](#).

Board of Trustees

Reviewed as part of the regular cycle of review. Compared to the CCLC policy and this is linked to accreditation and required. No substantive changes. Mici 4-2-2024

Approved. Jonathan/President 4-8-2024

BP 2431 SUPERINTENDENT/PRESIDENT SELECTION

References:

[Title 5 Sections 53000 et seq.:](#)

ACCJC Accreditation Standards IV.B. and IV.C.3. ~~(formerly V.B.1 and IV.B.1.j.);~~

~~[Title 5 Sections 53000 et seq.](#)~~

In the case of a Superintendent/President vacancy, the Board of Trustees shall establish a search process to fill the vacancy. The process shall be fair and open and comply with relevant regulations.

Also see BP 2432 Superintendent/President Succession

Date Adopted: December 8, 2009; November 14, 2017

Reviewed:

General Institution

Title IX Summer Update. This policy is legally required and was revised to update the title and align with the requirements of the 2024 Title IX regulations. Mici 07-09-2024

To Sadika/Student Services 7-10-2024

Copy to Mia/General Counsel/IVP SLS 7-10-2024

Approved Nikki/Human Resources 8-8-2024

BP 3433 PROHIBITION OF ~~SEXUAL HARASSMENT-DISCRIMINATION~~ UNDER TITLE IX**References:**

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

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

The District seeks to foster an environment in which all employees, students, applicants for employment, and applicants for admission, ~~and other individuals participating or attempting to participate in the District's education program or activity~~ feel free to report incidents of ~~sexual harassment-discrimination~~ in violation of this policy and Title IX, without fear of retaliation or reprisal. Therefore, the District also strictly prohibits retaliation, ~~including peer retaliation~~, against any ~~person for the purpose if interfering with any right or privilege secured by Title IX, or because the person has reported possible sex discrimination, made a sex-discrimination complaint, or participated or refused to participate in any way in the District's Title IX process. individual for filing a complaint of sexual harassment in violation of this policy and Title IX or for participating, or refusing to participate, in a sexual harassment investigation.~~ The District will investigate all allegations of Title IX retaliation ~~pursuant to its Title IX procedures swiftly and thoroughly~~. If the District determines that someone has retaliated, it will take reasonable steps within its power to stop such conduct. Individuals who engage in Title IX retaliatory conduct are subject to disciplinary action, up to and including termination or expulsion.

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

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

To this end, the Superintendent/President shall ensure that the institution undertakes education and training activities to counter ~~sexual harassment-discrimination~~ and to prevent, minimize, or eliminate any

~~hostile environment sex discrimination including sex-based harassment~~ that impairs access to equal education opportunity or impacts the terms and conditions of employment.

The Superintendent/President shall establish procedures that define ~~sexual harassment-discrimination and sex-based harassment on campus~~. The Superintendent/President shall further establish procedures ~~for employees, students, and other members of the campus community~~ that provide for the investigation and resolution of complaints regarding ~~sexual harassment-discrimination~~ in violation of this policy, and procedures to resolve complaints of ~~sexual harassment-discrimination~~ in violation of this policy. State and federal law and this policy prohibit ~~retaliation against any person for the purpose of interfering with any right or privilege secured by Title IX, or because the person who has reported information, made a complaint, testified, assisted or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the Title IX regulations~~ ~~retaliatory acts against all participants by the District, its employees, students, and agents.~~

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

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

Date Adopted: June 8, 2021

Date Reviewed/Revised:

General Institution

Reviewed as part of the regular review process and compared to CCLC model policy. Formatting and non-substantive edits. Mici 3-6-2024

Approved with changes. Administrative Services/Eresa 4-22-2024

BP 3570 SMOKE-FREE LEARNING AND WORKING ENVIRONMENT**References:**

Government Code Sections ~~7596~~, 7597.1, and ~~7598~~;
Labor Code Section 6404.5;
Education Code Sections 70902 and 76033(e);
~~Penal Code Sections 602 and 853.6~~;
~~Vehicle Code Section 4000.1~~;
~~Marin County Ordinance 3464~~

The Board recognizes the relationship between smoking and various health risks, including lung disease, cancer and heart disease. Furthermore, a strong link between environmental smoke or “secondhand smoke” and health risks has also been demonstrated.

Therefore, the Board prohibits smoking by all employees, students, and visitors at all times on any District property EXCEPT in Designated Smoking Areas. District property refers to any and all buildings, parking lots, District vehicles, as well as property on the Kentfield Campus, the Indian Valley Campus, and the Bolinas ~~Marine Lab property~~ Field Station property.

The term smoking in this policy refers to engaging in an act that generates smoke or vapor, such as possessing a lit pipe, a lit hookah pipe, electronic cigarettes or other imitation cigarette devices, a lit cigar, or a lit cigarette of any kind.

Also see AP 3570 ~~titled~~ Smoke-Free Learning and Working Environment and BP/AP 3550 Drug and Alcohol-Free Environment and Drug and Alcohol Abuse Prevention Program (DAAPP)

Office of Primary Responsibility: ~~College Operations~~ Administrative Services

Date Adopted: January 20, 2009
(Replaces College of Marin Policy 8.006)
Date Revised: July 19, 2011; April 17, 2018
Date Reviewed/Revised:

General Institution

Reviewed as part of the regular review process and compared to legally required CCLC model policy.

Formatting updated and non-substantive edits. Mici 3-6-2024

Approved with no changes. Administrative Services/Eresa 4-22-2024

BP 3600 AUXILIARY ORGANIZATIONS**References:**

Education Code Sections 72670 et seq.;

Title 5 Sections 59250 et seq.

The Board may recognize and approve auxiliary organizations established for the purpose of providing to the District any and all supportive services, specialized programs and functions identified in Title 5.

The Superintendent/President shall establish the administrative procedures necessary to fully comply with California law relating to auxiliary organizations, and to submit this policy and those procedures to the Chancellor for the California Community Colleges as required by law. At a minimum, the procedures shall address the subjects required by Title 5.

Recognition and establishment of auxiliary organizations shall include a public hearing on the recommendation to recognize or establish an auxiliary organization; Board approval of the auxiliary organization; and approval of a written agreement between the District and the auxiliary organization describing the services, programs or functions to be performed. All such written agreements shall comply fully with the requirements of Title 5 Section 59257 subdivision (j).

Any auxiliary organization recognized by the Board shall conduct its business in accordance with the administrative procedures adopted by the Superintendent/President pursuant to this policy. Notwithstanding anything contained in the administrative procedures, any auxiliary organization recognized by the Board shall comply with Education Code provisions regarding:

- the composition of a board of directors and the way in which it conducts its meetings;
- conducting an annual audit;
- employing its work force;
- expending and appropriating its funds, and keeping its records.

No funds or resources, other than funds or resources derived from gifts or bequests, shall be transferred by the District to any of its auxiliary organizations for the purpose of either avoiding laws or regulations that constrain community college districts or providing the District with an unfair advantage with respect to any state funding mechanism. Such state funding mechanisms include, but are not limited to, general apportionment funding, capital outlay funding, Extended Opportunity Programs and Services funding, and funding for programs and services for disabled students.

Date Adopted: September 19, 2017

Date Reviewed/Revised:

General Institution

Reviewed as part of the regular review process and compared to legally advised CCLC model policy.
Formatting updated and non-substantive edits. Mici 3-6-2024
Approved with no changes. Administrative Services/Eresa 4-22-2024

BP 3820 GIFTS**References:**

Education Code Section 72205

The Board of Trustees shall consider all gifts, donations, and bequests made to the District. The Board reserves the right to refuse to accept any gift which does not contribute toward the goals of the District, or the ownership of which would have the potential to deplete the resources of the District.

The District shall assume no responsibility for appraising the value of gifts made to the District.

Acceptance of a gift shall not be considered endorsement by the District of a product, enterprise or entity.

In no event shall the District accept a donation from any donor who engages in practices or policies which discriminate against any person on the basis of nationality, religion, age, gender, gender identity, gender expression, race or ethnicity, medical condition, genetic information, ancestry, sexual orientation, marital status, military or veteran status, or physical or mental disability; or when the stated purposes of the donation are to facilitate such discrimination in providing educational opportunity. ~~(See BP/AP 3410 titled Nondiscrimination)~~

Also see AP 3820 Gifts, BP/AP 2800 ~~titled~~ Naming of Facilities, ~~and~~ BP/AP 2710 ~~titled~~ Conflict of Interest, ~~and~~ BP/AP 3410 Nondiscrimination

Date Adopted: September 18, 2012

Date Reviewed/Revised: May 16, 2017

Date Reviewed/Revised:

General Institution

Reviewed as part of the regular review process. There is no CCLC model policy for comparison.

Formatting updated and non-substantive edits. Mici 3-6-2024

Approved with changes. Administrative Services/Eresa 4-2-2024

To Keith R./Advancement

BP 3840 FUNDRAISING

References:

No references

The Superintendent/President designates the Advancement Office to develop processes for District fundraising activities and the Office of Student Activities and Advocacy for student organization fundraising activities.

The District will permit coordinated fundraising through the Advancement Office from individuals, businesses, foundations, or business/corporate sources to assist in supporting College of Marin's goals and objectives.

~~See also:~~ *Also see* AP 3840 Fundraising, BP/AP 3820 Gifts

Date Approved: May 16, 2017

Date Reviewed/Revised:

Academic Affairs

The corresponding AP 4100 was updated 10/17/2023 to align with Title 5 revisions. Formatting updated.

This was compared to the legally required CCLC model policy. This is a 10+1. Mici 3-6-2024

Approved. Jon H/Enrollment 4-17-2024

Copy to Mia and Cari/SLS and Instruction 4-17-2024

Approved. Academic Senate 5-2-2024

BP 4100 GRADUATION REQUIREMENTS FOR DEGREES AND CERTIFICATES

References:

Education Code Sections 70902(b)(3);

Title 5 Sections 55060 et seq.

The philosophy on General Education at College of Marin is expressed well by the policy of the Board of Governors of the California Community Colleges:

“The awarding of an Associate Degree is intended to represent more than an accumulation of units. It is to symbolize a successful attempt on the part of the college to lead students through patterns of learning experiences designed to develop certain capabilities and insights. Among these are the ability to think and to communicate clearly and effectively both orally and in writing; to use mathematics; to understand the modes of inquiry of the major disciplines; to be aware of other cultures and times; to achieve insights gained through experience in thinking about ethical problems; and to develop the capacity for self-understanding. In addition to these accomplishments, the student shall possess sufficient depth in some field of knowledge to contribute to lifetime interest.

Central to an Associate Degree, General Education is designed to introduce students to the variety of means through which people comprehend the modern world. It reflects the conviction of colleges that those who receive their degrees must possess in common certain basic principles, concepts and methodologies both unique to and shared by various disciplines. College educated persons must be able to use this knowledge when evaluating and appreciating the physical environment, the culture, and the society in which they live. Most importantly, General Education should lead to better self-understanding.

In establishing or modifying a general education program, ways shall be sought to create coherence and integration among the separate requirements. It is also desirable that general education programs involve students actively in examining values inherent in proposed solutions to major social problems.”

The District grants the degrees of Associate in Arts and Associate in Science to those students who have completed the subject requirements for graduation and who have maintained a 2.0 average in subjects attempted. Students must also complete the general education residency and competency requirements set forth in Title 5 regulations.

Students may be awarded a Certificate of Achievement upon successful completion of a minimum of 186 or more semester units of degree-applicable coursework designed as a pattern of learning experiences designed to develop certain capabilities that may be oriented to career or general education.

The Superintendent/President shall establish procedures to determine degree and certificate requirements that include appropriate involvement of the local curriculum committee. The procedures shall assure that graduation requirements are published in the District's catalog and included in other resources that are convenient for students.

Date Adopted: March 18, 2008 *(Replaces current College of Marin Policy 2.0012)*

Date Reviewed/Revised:

Academic Affairs

Reviewed as part of the regular review process and compared to CCLC model policy. This is only required if the District has honorary degrees. Formatting and non-substantive edits. This is a 10+1.

Mici 3-6-2024

Approved. Jon H/Enrollment 4-17-2024

To Mia and Cari/SLS and Instruction for information. 4-17-2024

Approved. Academic Senate 5-2-2024

BP 4110 Honorary Degrees

References:

Education Code Section 72122

Honorary degrees may be awarded at commencement or some other equally appropriate time. The names of persons receiving honorary degrees must be approved by the Board.

The Superintendent/President shall establish procedures and criteria for the award of honorary degrees.

~~See Also see:~~ AP 4110 Honorary Degrees

Date Adopted: December 5, 2017

Date Reviewed/Revised:

Academic Affairs

Due for review as part of the regular review process. Compared to the legally required CCLC model policy. Formatting updated and non-substantive edits. This is a 10+1. Mici 3-6-2024

Approved. Jon H/Enrollment 4-17-2024

Copy Mia/SLS

Approved. Academic Senate 5-2-2024

BP 4231 GRADE CHANGES

References:

Education Code Sections 76224 and 76232;
Title 5 Section 55025

The Superintendent/President shall implement procedures to assure the accuracy and integrity of all grades awarded by faculty. The procedures shall include, but not necessarily be limited to, the following:

- Assurance that in the absence of mistake, bad faith, fraud, or incompetence, the grades awarded by faculty shall be final.
- Procedures for students to challenge the correctness of a grade.
- The installation of security measures to protect grade records and grade storage systems from unauthorized access.
- Limitations on access to grade records and grade storage systems.
- Discipline for students or staff who are found to have gained access to grade records without proper authorization or to have changed grades without proper authorization.
- Notice to students, faculty, transfer institutions, accreditation agencies and law enforcement agencies if unauthorized access to grade records and grade storage systems is discovered to have occurred.

Also see BP 3310 ~~titled~~ Records Retention and Destruction, AP 4231 ~~titled~~ Grade Changes, and BP/AP 5040 ~~titled~~ Student Records.

Date Adopted: August 25, 2009

Date Reviewed: June 19, 2018

Date Reviewed/Revised:

Academic Affairs

To Academic Senate at their request. Reviewed and made no changes. 4-11-2024

BP 4240 ACADEMIC RENEWAL

Reference:

Title 5 Section 55044

Previously recorded substandard academic performance may be disregarded if it is not reflective of a student's demonstrated ability. The Superintendent/President shall establish procedures that provide for academic renewal.

Date Adopted: March 18, 2008; May 16, 2023

Date Reviewed:

Student Services

Reviewed as part of the regular review process and compared to the legally required CCLC model policy.

Formatting and non-substantive edits. Mici 3-6-2024

Approved. Sadika 4-30-2024

To Mia/SLS for information 4-17-2024

BP 5400 ASSOCIATED STUDENTS ORGANIZATION

Reference:

Education Code Section 76060

The students of the District are authorized to organize a student body association. The Board of Trustees hereby recognizes that association as the Associated Students of the Marin Community College District (otherwise known as "ASCOM").

The Associated Students Organization is recognized as the official voice for the students in District decision-making processes. It may conduct other activities as approved by the Superintendent/President. The Associated Students Organization activities shall not conflict with the authority or responsibility of the Board of Trustees or its officers or employees.

The Associated Students Organization shall conduct itself in accordance with state laws and regulations and administrative procedures established by the Superintendent/President.

The Associated Students Organization shall be granted the use of District premises subject to such administrative procedures as may be established by the Superintendent/President. Such use shall not be construed as transferring ownership or control of the premises.

See Administrative Procedure AP 5400 Associated Student Organization

Date Adopted: April 20, 2010

Date Reviewed/Revised: May 16, 2017

Date Reviewed/Revised:

Business and Fiscal Affairs

Reviewed as part of the regular review process and compared to the legally required CCLC model policy.
Formatting updated and non-substantive edits. Ensured the language reflects current practices.

Mici 3-6-2024

Approved with no changes. Administrative Services/Eresa 4-22-2024

BP 6100 DELEGATION OF AUTHORITY, Business and Fiscal Affairs

References:

Education Code Sections 70902 (d), 81655, and 81656

The Board of Trustees delegates to the Superintendent/President the authority to supervise the general business procedures of the District to assure the proper administration of property and contracts; the budget, audit and accounting of funds; the acquisition of supplies, equipment and property; and the protection of assets and persons. All transactions shall comply with applicable laws and regulations, and with the California Community Colleges Budget and Accounting Manual.

No contract shall constitute an enforceable obligation against the District until it has been approved or ratified by the Board. (See BP 6340 ~~titled~~ Bids and Contracts)

The Superintendent/President shall make legally required and appropriate periodic reports to the Board of Trustees and shall keep the Board fully advised regarding the financial status of the District.

Date Adopted: September 16, 2008

Date Revised: May 17, 2016

Date Reviewed/Revised:

Business and Fiscal Affairs

Reviewed as part of the regular review process. Compared to the legally required CCLC model policy if District issues debt. Our language mirrors the CCLCs. Formatting updated and non-substantive edits.

Mici 3-6-2024

Approved without changes. Administrative Services/Eresa 4-22-2024

BP 6307 DEBT ISSUANCE AND MANAGEMENT

References:

Government Code Section 8855

The Superintendent/President shall establish procedures that comply with relevant law to ensure the District is professionally managing its debt and fulfills its annual debt issuance reporting requirements to the California Debt and Investment Advisory Commission.

Procedures shall include:

- The purposes for which the debt proceeds may be used.
- The types of debt that may be issued.
- The relationship of the debt to, and integration with, the District's capital improvement program or budget, if applicable.
- Policy goals related to the District's planning goals and objectives.
- The internal control procedures that the District has implemented, or will implement, to ensure that the proceeds of the proposed debt issuance will be directed to the intended use.

~~See Also:~~ *Also see* AP 6307 Debt Issuance and Management

Date Adopted: July 18, 2017

Date Reviewed/Revised:

Business and Fiscal Affairs

Reviewed as part of the regular review process. Compared to the legally advised CCLC model policy. Our language mirrors the CCLCs. No changes. Formatting updated and non-substantive edits. Mici 3-6-2024
Approved without changes. Administrative Services/Eresa 4-22-2024

BP 6320 INVESTMENTS

Reference:

Government Code Sections 53600 et seq.

The Superintendent/President is responsible for ensuring that District funds that are not required for the immediate needs of the District are invested. Investments shall be in accordance with law, including Government Code Sections 53600 et seq.

Date Adopted: August 26, 2008

Date Reviewed: April 19, 2016

Date Reviewed/Revised:

Business and Fiscal Affairs

Reviewed as part of the regular review process. Compared to the legally required CCLC model. Our language tracks the CCLC's language. Formatting updated and non-substantive edits. Confirmed process is still practiced. Mici 3-6-2024

Approved without changes. Administrative Services/Eresa. 4-22-2024

BP 6400 FINANCIAL AUDITS

Reference:

Education Code Section 84040(b);
ACCJC Accreditation Standard III.D.7.

There shall be an annual outside audit of all funds, books, and accounts of the District in accordance with the Title 5 regulations. The Superintendent/President shall assure that an annual outside audit is completed. The Superintendent/President shall recommend a certified public accountancy firm to the Board with which to contract for the annual audit.

Also see BP/AP 6740 ~~titled~~ Citizens' Bond Oversight Committee.

Date Adopted: August 26, 2008

Reviewed/Revised: July 18, 2017

Reviewed/Revised:

Business and Fiscal Affairs

Reviewed as part of the regular review process. Compared to the legally advised CCLC model. Our language omitted the below CCLC's language. Formatting updated and edits as shown.

Mici 3-6-2024

Approved without changes. Administrative Services/Eresa 4-22-2024

BP 6450 WIRELESS OR CELLULAR PHONE USE

References:

Vehicle Code, Sections 12810.3, 23123, and 23124;
26 U.S. Code Sections 274(d)(4) and 280E(d)(4)

The Superintendent/President shall determine if it is in the best interests of the District to provide a wireless or cellular phone at District expense.

Wireless or cellular phones provided by the District are to be used exclusively for business purposes.

Cellular telephones provided by the District for compensatory reasons are classified by the Internal Revenue Service as a fringe benefit, the value of which must be included in an employee's gross income.

The value of a cellular telephone provided by the District primarily for non-compensatory business purposes is excludable from an employee's income. Record keeping of business and personal use of District-issued cellular telephones shall not generally be required when the telephones are issued for non-compensatory business reasons.

Motor vehicle drivers may not use wireless or cellular phones while operating their vehicles without a hands-free listening device and shall comply with all requirements of California law regarding the use of wireless or cellular phones in vehicles.

There shall be no expectation of privacy in the use of a District-issued cellular telephone.

Date Adopted: May 18, 2010

Date Reviewed/Revised: August 15, 2017

Date Reviewed/Revised:

Business and Fiscal Affairs

Reviewed as part of the regular review process and compared to the legally required CCLC model. Our language tracks the CCLC's language except COM has added the last contract sentence. Formatting updated. Mici 3-6-2024

Approved without changes. Administrative Services/Eresa 4-22-2024

BP 6500 PROPERTY MANAGEMENT

References:

Education Code Sections 81300 et seq.

The Superintendent/President is delegated the authority to act as the Board's negotiator regarding all property management matters that are necessary for the benefit of the District. No transaction regarding the lease, sale, use, or exchange of real property by the District shall be enforceable until acted on by the Board of Trustees itself.

The Superintendent/President shall establish such procedures as may be necessary to assure compliance with all applicable laws relating to the sale, lease, use, or exchange of real property by the District.

No contract shall constitute an enforceable obligation against the District until it has been approved or ratified by the Board. (~~See BP 6340 titled Bids and Contracts~~).

[See BP 6340 Bids and Contracts](#)

Date Adopted: January 20, 2009

Date Reviewed/Revised: August 15, 2017

Date Reviewed/Revised:

Business and Fiscal Affairs

Reviewed as part of the regular review process. Compared to the legally required CCLC model. Our language tracks the CCLC's language except COM has added the last contract sentence. Formatting updated. Mici 3-6-2024

Approved with changes. Administrative Services/Eresa. 4-22-2024

BP 6900 BOOKSTORE~~(s)~~

References:

Education Code Section 81676;
Civil Code Section 1798.90

The College of Marin bookstore~~(s)~~ shall be established and operated by either the District or by a qualified vendor. The ~~e~~College bookstore shall comply with the requirements of the Reader Privacy Act.

~~Operational costs of the College bookstore(s) shall be paid from revenue earned from the bookstore.~~

Fiscal management of the bookstore~~(s)~~ shall be in accordance with the California Community Colleges Budget and Accounting Manual. An annual audit of the records and accounts of the bookstore shall be provided to the Board of Trustees.

Contracts for outside vendors to operate the College bookstores shall be awarded by competitive bid, submitted to the Board of Trustees for approval, and awarded in the best interests of the students. ~~Student organizations shall be encouraged to submit bids and given preference if they meet all other bid criteria.~~

Also see BP/AP 6400 ~~titled~~ Financial Audits

Date Adopted: May 12, 2009

Date Reviewed/Revised: December 11, 2012, July 18, 2017

Date Reviewed/Revised:

Human Resources

To CSEA, SEIA and UPM on 12-11-2023 and 4-11-2024

BP 7290 IN-STATE EMPLOYMENT (NEW)

References:

To maintain compliance with tax regulations, labor laws, and other legal requirements, employees are generally not permitted to work from a location outside the state of California where their primary work location is in which their primary work location is established, without explicit authorization from the District.

As a California public community college, the District's business operations almost exclusively reside within California. Employees shall not perform District-related work outside of California. Exceptions to this prohibition are limited to approved and documented purposes for conducting District business in a region outside of California, such as limited-term business travel to attend a conference.

Any exception must be approved in writing in advance by Human Resources and the area Vice President. A remote work arrangement outside of California, in and of itself, is not a purpose for conducting business out of the state.

Any changes in an employee's primary work location or temporary work arrangements, including requests for out-of-state work, must be promptly communicated to Human Resources. Failure to comply with this policy may result in corrective action, up to and including termination of employment.

Also see AP 3050 Institutional Code of Ethics

Date Adopted:

Human Resources

Reviewed as part of the regular cycle of review. Compared to model CCLC policy and this is legally required. Language is parallel to the model policy. Mici 2-23-2024
Approved. Tony/Fiscal 4-24-2024

BP 7385 SALARY DEDUCTIONS

References:

Education Code Sections 87040, 87833, 87834, and 88167

An employee may request reduction of ~~his/her~~ their salary in any amount for any or all of the following purposes:

- participation in a tax-sheltered annuity and/or deferred compensation program;
- paying premiums on any policy or certificate of group life insurance or disability insurance or legal expense insurance, or any of them;
- paying rates, dues, fees, or other periodic charges on any hospital service contract; and/or
- any permissible voluntary deductions

The request provided for above shall be revocable by the employee.

Without charge to the employee, the District shall reduce the salary payment by the amount which the employee has authorized in writing for the purpose of paying ~~his/her~~ their membership dues in any local, statewide, or other professional organization. Revocation of such authorization shall be in writing and shall be effective beginning with the next pay period.

Date Adopted: December 13, 2011

Date Reviewed:

General Institution

CCLC updated this legally required procedure with references to BP 3433 Prohibition of Sex Discrimination under Title IX, AP 3433 Prohibition of Sex Discrimination under Title IX, and AP 3434 Responding to Sex Discrimination under Title IX and clarify to whom the procedure applies. Mici 7-9-24
To Sadika/Student Services 7-10-2024
Copy to Mia/General Counsel/IVP SLS 7-10-2024
Approved Nikki/Human Resources 8-8-2024

AP 3430 PROHIBITION OF HARASSMENT**References:**

Education Code Sections 212.5, 44100, 66281.5, and 66281.8;
Government Code Sections 12940 and 12923;
Civil Code Section 51.9;
Title 5 Sections 59320 et seq.;
Title IX, Education Amendments of 1972;
Title VII of the Civil Rights Act of 1964, 42 U.S.C.A. Section 2000e

The District is committed to providing an academic and work environment free of unlawful harassment. This procedure defines ~~sexual harassment, and other forms of harassment on campus, and AP 3435 Discrimination and Harassment Complaints~~ sets forth a procedure for the investigation and resolution of complaints of harassment by or against any ~~students, employees, unpaid interns, or volunteers staff or faculty member or student~~ within the District.

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

[For information on the District's prohibition of sex-based harassment under Title IX, see BP 3433 Prohibition of Sex Discrimination under Title IX, AP 3433 Prohibition of Sex Discrimination under Title IX, and AP 3434 Responding to Sex Discrimination under Title IX. For other forms of harassment, Complainants should use this procedure.](#)

Definitions

General Harassment: Harassment based on age, ancestry, color, religious creed (including religious dress and grooming practices, family and medical care leave, disability (mental and physical) including HIV and AIDS, marital status, medical condition (including cancer and genetic characteristics), genetic information, military and veteran status, national origin (including language use restrictions), race, sex (which includes pregnancy, childbirth, breastfeeding and medical conditions related to pregnancy, childbirth or breastfeeding), gender, gender identity and gender expression, sexual orientation, or the perception that a person has one or more of these characteristics is illegal and violates District policy. Harassment shall be found where, in aggregate, the incidents are sufficiently pervasive, persistent, or severe, that a reasonable person with the same characteristics as the victim of the harassing conduct would be adversely

affected to a degree that interferes with his/her/their ability to participate in or realize the intended benefits of an institutional activity, employment, or resource.

~~For sexual harassment under Title IX, Complainants must proceed under BP 3433 Prohibition of Sexual Harassment under Title IX, AP 3433 Prohibition of Sexual Harassment under Title IX, and AP 3434 Responding to Harassment Based on Sex under Title IX. Sexual harassment under Title IX is defined in AP 3433 Prohibition of Sexual Harassment under Title IX and Administrative Procedure 3434 – Responding to Harassment Based on Sex under Title IX. For other forms of sexual harassment or gender-based harassment, Complainants should use the procedure in AP 3435 Discrimination and Harassment Complaint Procedures.~~

Gender-based harassment does not necessarily involve conduct that is sexual. Any hostile or offensive conduct based on gender can constitute prohibited harassment if it meets the definition above. For example, repeated derisive comments about a person's competency to do the job, when based on that person's gender, could constitute gender-based harassment. Harassment comes in many forms, including but not limited to the following conduct that could, depending on the circumstances, meet the definition above, or could contribute to a set of circumstances that meets the definition:

Verbal: Inappropriate or offensive remarks, slurs, jokes, or innuendoes based on a person's race, gender, sexual orientation, or other protected status. This may include, but is not limited to, inappropriate comments regarding an individual's body, physical appearance, attire, sexual prowess, marital status, or sexual orientation; unwelcome flirting or propositions; demands for sexual favors; verbal abuse, threats, or intimidation; or sexist, patronizing, or ridiculing statements that convey derogatory attitudes based on gender, race, nationality, sexual orientation, or other protected status.

Physical: Inappropriate or offensive touching, assault, or physical interference with free movement. This may include, but is not limited to, kissing, patting, lingering or intimate touches, grabbing, pinching, leering, staring, unnecessarily brushing against, or blocking another person, whistling, or sexual gestures. It also includes any physical assault or intimidation directed at an individual due to that person's gender, race, national origin, sexual orientation, or other protected status. Physical sexual harassment includes acts of sexual violence, such as rape, sexual assault, sexual battery, and sexual coercion. Sexual violence refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's use of drugs or alcohol. An individual also may be unable to give consent due to an intellectual or other disability.

Visual or Written: The display or circulation of visual or written material that degrades an individual or group based on gender, race, nationality, sexual orientation, or other protected status. This may include, but is not limited to, posters, cartoons, drawings, graffiti, reading materials, computer graphics, or electronic media transmissions.

Environmental: A hostile academic or work environment may exist where it is permeated by sexual innuendo; insults or abusive comments directed at an individual or group based on gender, race, nationality, sexual orientation, or other protected status; or gratuitous comments regarding gender, race, sexual orientation, or other protected status that are not relevant to the subject matter of the class or activities on the job. A hostile environment can arise from an unwarranted focus on sexual topics or sexually suggestive statements in the classroom or work environment.

It can also be created by an unwarranted focus on, or stereotyping of, particular racial or ethnic groups, sexual orientations, genders, or other protected statuses. An environment may also be hostile toward anyone who merely witnesses unlawful harassment in his/her/their immediate surroundings, although the conduct is directed at others. The determination of whether an environment is hostile is based on the totality of the circumstances, including such factors as the frequency of the conduct, the severity of the conduct, whether the conduct is humiliating or physically threatening, and whether the conduct unreasonably interferes with an individual's learning or work.

Sexual Harassment: In addition to the above, sexual harassment consists 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 work or educational setting when:

- submission to the conduct is explicitly or implicitly made a term or condition of an individual's employment, academic status, progress, internship, or volunteer activity;
- submission to, or rejection of, the conduct by the individual is used as a basis of employment or academic decisions affecting the individual;
- the conduct has the purpose or effect of having a negative impact upon the individual's work or academic performance, or of creating an intimidating, hostile, or offensive work or educational environment (as more fully described below); or
- submission to, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through the community college

This definition encompasses two kinds of sexual harassment:

"Quid pro quo" sexual harassment occurs when a person in a position of authority makes educational or employment benefits conditional upon an individual's willingness to engage in or tolerate unwanted sexual conduct.

"Hostile environment" sexual harassment occurs when unwelcome conduct based on a person's gender or sex is sufficiently severe or pervasive so as to alter the conditions of an individual's learning or work environment, unreasonably interferes with an individual's academic or work performance, or creates an intimidating, hostile, or abusive learning or work environment. The victim must subjectively perceive the environment as hostile, and the harassment must be such that a reasonable person of the same gender or sex would perceive the environment as hostile. A single or isolated incident of sexual harassment may be sufficient to create a hostile environment if it unreasonably interfered with the person's academic or work performance, or created an intimidating, hostile, or offensive learning or working environment.

Sexually harassing conduct can occur between people of the same or different genders or sex. The standard for determining whether conduct constitutes sexual harassment is whether a reasonable person of the same gender or sex as the victim would perceive the conduct as harassment based on sex.

Consensual Relationships

Romantic or sexual relationships between supervisors and employees, or between administrators, faculty members, or staff members and students are discouraged. There is an inherent imbalance of power and potential for exploitation in such relationships. A conflict of interest may arise if the administrator, faculty member, or staff member must evaluate the student's or employee's work or make decisions affecting the employee or student. The relationship may create an appearance of impropriety and lead to charges

of favoritism by other students or employees. A consensual sexual relationship may change, with the result that sexual conduct that was once welcome becomes unwelcome and harassing. In the event that such relationships do occur, the District has the authority to transfer any involved employee to eliminate or attenuate the supervisory authority of one over the other, or of a teacher over a student. Such action by the District is a proactive and preventive measure to avoid possible charges of harassment and does not constitute discipline against any affected employee.

Academic Freedom

No provision of this Administrative Procedure shall be interpreted to prohibit conduct that is legitimately related to the course content, teaching methods, scholarship, or public commentary of an individual faculty member or the educational, political, artistic, or literary expression of students in classrooms and public forums. Freedom of speech and academic freedom are, however, not limitless and this procedure will not protect speech or expressive conduct that violates federal or California anti-discrimination laws.

Office of Primary Responsibility: Human Resources and Student Services – Activities and Advocacy

Date Approved: November 6, 2008

Date Reviewed/Revised: January 15, 2013; September 15, 2015; May 11, 2021;
September 20, 2022

Date Revised:

General Institution

This procedure was revised to update the title, add a definition for sex discrimination under Title IX, and revise the definition of sex-based harassment under Title IX to align with the requirements of the 2024 Title IX regulations. Mici 7-9-2024
 To Sadika/Student Services 7-10-2024
 Copy to Mia/General Counsel/IVP SLS 7-10-2024
 Approved Nikki/Human Resources 8-8-2024

AP 3433 PROHIBITION OF SEXUAL HARASSMENT UNDER TITLE IX**References:**

Title VII of the Civil Rights Act of 1964, 42 U.S. Code Annotated Section 2000e;
 Title IX, Education Amendments of 1972;
 Title 5 Sections 59320 et seq.

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

This procedure and related policy protects students, ~~and~~ employees, applicants for admission or employment, and other individuals participating or attempting to participate in the District's education program or activity, in connection with all the academic, educational, extracurricular, athletic, and other programs of the District, whether those programs take place in the District's facilities, a District bus, or at a class or training, and/or any program sponsored by the District at another location.

Definitions

Sex Discrimination: Any discrimination based on sex, including, but not limited to, sex-based harassment. Sex discrimination includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

~~Sexual-Based Harassment under Title IX: Conduct that satisfies one or more of the following: A form of sex discrimination that includes sexual harassment and harassment based on sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, or gender identity. Sex-based harassment includes the following:~~

- Quid pro quo harassment: A District employee, agent, or other person authorized by the District to provide conditions the provision of an aid, benefit, or service under of the District's education program or activity explicitly or impliedly condition the provision of such an aid, benefit, or service on an individual's a person's participation in unwelcome sexual conduct (quid pro quo harassment);
 - Hostile environment harassment. Unwelcome sex-based conduct that, based on a totality of the circumstances, is subjectively and objectively offensive and is determined by a reasonable person to be so severe, or pervasive that it limited or denies a person's ability to participate in or benefit from, and objectively offensive that it effectively denies a person equal access to the District's education program or activity (i.e., creates a hostile environment). Whether

a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

- The degree to which the conduct affected the Complainant's ability to access the District's education program or activity;
 - The type, frequency, and duration of the conduct;
 - The parties' ages, roles within the District's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
 - The location of the conduct and the context in which the conduct occurred; and
 - Other sex-based harassment in the District's education program or activity;
- Sexual assault, including the following:
 - **Sex Offenses.** Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.
 - **Rape** (except Statutory Rape). The carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their temporary or permanent mental or physical incapacity. There is carnal knowledge if there is the slightest penetration of the genital or anal opening of the body of another person.
 - Statutory Rape. Sexual intercourse with a person who is under the statutory age of consent. There is no force or coercion used in Statutory Rape; the act is not an attack.
 - **Sexual Assault with an Object.** To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their age or because of his/her/their temporary or permanent mental or physical incapacity. An "object" or "instrument" is anything the offender uses other than the offender's genitalia, e.g., a finger, bottle, handgun, stick.
 - **Fondling.** The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their age or because of his/her/their temporary or permanent mental or physical incapacity.
 - ~~Sex Offenses, Non-Forcible Unlawful, Non-Forcible Sexual Intercourse.~~
 - **Incest.** Non-Forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
 - ~~Statutory Rape — Non-Forcible. Sexual intercourse with a person who is under the statutory age of consent. There is no force or coercion used in Statutory Rape; the act is not an attack.~~
 - **Dating Violence.** Violence against a person who is or has been in a social relationship of a romantic or intimate nature with the victim, and where: ~~Th~~e existence of a relationship will be determined based on a consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
 - **Domestic Violence.** Violence committed:
 - By a current or former spouse or intimate partner of the victim;
 - By a person with whom the victim shares a child in common;
 - By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
 - By a person similarly situated to a spouse of the victim under the domestic or family violence laws of California; or

- By any other person against an adult or youth victim protected from that person's acts under the domestic or family violence laws of California.
- **Stalking.** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his/her/their safety or the safety of others or suffer substantial emotional distress.

Offices of Primary Responsibility: Human Resources; Student Services – Activities and Advocacy

Date Adopted: December 14, 2021; September 19, 2023

Date Revised:

General Institution

This legally required procedure was revised to update the title and align the grievance processes with the requirements of the 2024 Title IX regulations. Mici 7-9-2024

Approved. Sadika/Student Services 7-10-2024

Copy to Mia/General Counsel/IVP SLS 7-10-2024

Copy to Nikki/Human Resources 7-10-2024

AP 3434 RESPONDING TO HARASSMENT BASED ON SEX UNDER TITLE IX

References:

- 20 U.S. Code Sections 1681 et seq.;
- 34 Code of Federal Regulations Parts 106.1 et seq.;
- Education Code Sections [212.5](#), [66262.5](#), [66281.8](#), and [67380](#) et seq.;
- Office for Civil Rights Letter dated August 24, 2021

Introduction

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

Title IX Coordinator

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

The District’s Title IX Coordinator is Nekoda Harris, Executive Director of Human Resources, and the Title IX Coordinator’s contact information is:

Address:

Indian Valley Campus
Building 11, Second Floor
1800 Ignacio Boulevard
Novato, CA 94949

Phone number: (415) 485-9520

Email: NHarris@marin.edu

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

A report of ~~of sexual harassment discrimination including sex-based harassment~~ to the Title IX Coordinator does not necessarily lead to a full investigation, as discussed more fully below. However, the Title IX Coordinator ~~will make an assessment to determine if there is a safety risk to the campus. If the Title IX Coordinator finds there is a continued risk, the Title IX Coordinator will file the formal complaint without the Complainant's consent or cooperation~~ evaluate a Complaint to determine whether to investigate a Complaint pursuant to these procedures.

~~Title IX Harassment Complaints, Investigations, and Hearings~~

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

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

Jurisdictional Requirements – Application of Procedures

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

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

Definitions

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

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

Complainant: A Complainant is ~~an individual who alleges he/she/they is the victim of conduct that could constitute sexual harassment.~~ (1) A student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations; or (2) A person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations and who was participating or attempting to participate in the District’s education program or activity at the time of the alleged sex discrimination.

Complaint: An oral or written request to the recipient that objectively can be understood as a request for the District to investigate and make a determination about alleged discrimination under Title IX or its regulations.

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

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

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

Decision-Maker: The person or persons who will question the parties and witnesses, conduct a live hearing (if offered), oversee the live hearing and make a determination of whether sex discrimination occurred responsibility. At its discretion, the District may have one Decision-Maker determine whether the Respondent is responsible, and another Decision-Maker determine the appropriate level of penalty for the conduct. ~~The Decision-Maker cannot be the Title IX Coordinator or the investigator.~~

Disciplinary sanctions: Consequences imposed on a respondent following a determination under Title IX or its regulations that the Respondent violated the District's prohibition on sex discrimination.

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

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

Relevant: Related to the allegations of sex discrimination under investigation as part of these grievance procedures. Questions are relevant when the question seeks evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decision-maker in determining whether the alleged sex discrimination occurred.

Remedies: Measures provided, as appropriate, to a complainant or any other person the District identifies as having had their equal access to the District's education program or activity limited or denied by sex

discrimination. These measures are provided to restore or preserve that person's access to the District's education program or activity after the District determines that sex discrimination occurred.

Respondent: A Respondent is ~~an individual reported to be the perpetrator of conduct that could constitute sexual harassment~~ a person who is alleged to have violated the District's prohibition on sex discrimination.

Retaliation: Intimidation, threats, coercion, or discrimination against any person by the District, a student, or an employee or other person authorized by the District to provide aid, benefit, or service under the District's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or its regulations, or because the person has reported information, made a Complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the Title IX regulations.

Sexual Harassment-based harassment under Title IX: ~~Conduct~~ A form of sex discrimination. Sex-based harassment includes sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity that satisfies one or more of the following:

- Quid pro quo harassment. An employee, agent, or other person authorized by the ~~A District employee conditions the provision of to provide~~ an aid, benefit, or service of the under the District's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on an individual's person's participation in unwelcome sexual conduct ~~(quid pro quo harassment);~~
- Hostile environment harassment. Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is determined by a reasonable person to be so severe, or pervasive, and objectively offensive that it effectively denies a person equal access to that it limits or denies a person's ability to participate in or benefit from the District's education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
 - The degree to which the conduct affected the Complainant's ability to access the District's education program or activity;
 - The type, frequency, and duration of the conduct;
 - The parties' ages, roles within the District's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
 - The location of the conduct and the context in which the conduct occurred; and
 - Other sex-based harassment in the District's education program or activity.
- Sexual assault, including the following:
 - **Sex Offenses.** Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.
 - **Rape** (except Statutory Rape). The carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their temporary or permanent mental or physical incapacity. There is carnal knowledge if there is the slightest penetration of the genital or anal opening of the body of another person.

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

Supportive measures: Individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to the Complainant or Respondent to:

- Restore or preserve that party's access to the District's education program or activity, including measures that are designed to protect the safety of the parties or the District's educational environment; or
- Provide support during the District's grievance procedures or during an informal resolution process, if any.

Grievance Procedures for Complaints of Sex Discrimination under Title IX

(For Complaints of sex-based harassment involving students, see the section entitled, “Grievance Procedures for Complaints of Sex-Based Harassment Involving Student Parties.”)

Who May File a Complaint

The following people individuals have a right to make a Complaint of sex discrimination, including Complaints of sex-based harassment, requesting that the District investigate and make a determination about alleged discrimination under Title IX:

- A “complainant,” which includes:
 - A student or employee of the District who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; or
 - A person other than a student or employee of the District who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX at a time when that individual was participating or attempting to participate in the District’s education program or activity;
- A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant; or
- The District Title IX Coordinator.

With respect to Complaints of sex discrimination other than sex-based harassment, in addition to the people individuals listed above, the following persons have a right to make a Complaint:

- Any student or employee of the District; or
- Any person other than a student or employee who was participating or attempting to participate in the District’s education program or activity at the time of the alleged sex discrimination.

Consolidation of Complaints

The District may consolidate Complaints of sex discrimination against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations of sex discrimination arise out of the same facts or circumstances. When more than one complainant or more than one respondent is involved, references below to a party, complainant, or respondent include the plural, as applicable.

Removal of Respondent Pending Final Determination

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

Emergency Removal

The District may remove a non-employee Respondent from the District’s education program or activity on an emergency basis after it conducts an individualized safety and risk analysis and determines that an imminent and serious threat to the health and safety of a complainant or any students, employees, or other individual arising from the allegations of sex discrimination justifies removal.

The District’s Title IX Coordinator or designee, the Chief or Police or designee, or the Superintendent/President or designee will conduct the individualized safety and risk analysis.

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

Administrative Leave

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

Reporting Options

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

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

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

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

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

The District will document reports of sexual harassment in compliance with the Clery Act, a federal law requiring data collection of crime within the campus geography. Under the Clery Act, the District does not document personal information; the District reports the type of conduct, and the time, date, and location. (Also see *BP/AP 3540 Sexual and Other Assaults on Campus* and *BP/AP 3515 Reporting of Crimes*)

District Employees and Officials with Authority

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

~~The District has designated the following employees as Officials with Authority: all managers, supervisors, campus police officers, and the student conduct and community standards coordinator.~~

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

~~All other employees are strongly encouraged to report all relevant information they know about sexual harassment including the name of the Respondent, the Complainant, any other witnesses, and the date, time, and location of the alleged incident.~~

Basic Requirements of Title IX Grievance Procedures for Complaints of Sex Discrimination

The District will treat complainants and respondents equitably.

The District requires that any Title IX Coordinator, investigator, or decision-maker not have a conflict of interest or bias for or against complainants or respondents generally or an individual Complainant or Respondent. As long as there is no conflict of interest or bias, a decision-maker may be the same person as the Title IX Coordinator or investigator.

The District presumes that the Respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of its grievance procedures.

Intake and Processing of Report

Receipt of Report

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

Timeframes and Extensions for Reporting

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

- **Complaint evaluation:** The District will determine whether to dismiss or investigate a Complaint within **ten days**.
- **Complaint investigation:** The District will complete an adequate, reliable, and impartial investigation of Complaints within **120 calendar days**.
- **Questioning the Parties and Witnesses:** The District will complete the process that enables the Decision-Maker to question the Parties and Witnesses no later than **30 calendar days after the date that the investigation concludes**.
- **Determination Whether Sex Discrimination Occurred:** The District will issue a written determination whether sex discrimination occurred no later than **20 Business days after the**

date that the Decision-Maker completes the process that enables the Decision-Maker to question the Parties and Witnesses.

- Appeal (if any): A Complainant or Respondent may submit a written appeal no later than **five business days** from the date of the notice of determination whether sex discrimination occurred or from the date of the District's notice of dismissal of a Complaint or any allegations. If a Complainant or Respondent submits an appeal to the District, the District will notify the other Party in writing within **five business days** of receiving a Party's appeal and allow the non-appealing Parties at least **ten business days** from the date of receipt of the appeal to submit a written statement in support of, or challenging, the outcome. The appeal Decision-Maker will issue a written decision on whether to grant or deny the appeal, and the rationale for the decision, within **45 calendar days** after the Decision-Maker on appeal receives the response to the appeal or the last day to provide a response.

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

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

Privacy

The **District** will take reasonable steps to protect the privacy of the Parties and Witnesses during its grievance procedures. These steps will not restrict the ability of the Parties to obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures. The Parties cannot engage in retaliation, including against Witnesses.

Evidence

The **District** will objectively evaluate all evidence that is relevant and otherwise permissible—including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness.

The following types of evidence, and questions seeking that evidence, are impermissible (*i.e.*, will not be accessed or considered, except by the **District** to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether the evidence or question is relevant:

- Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- A Party's or Witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the Party or Witness, unless the **District** obtains that Party's or Witness's voluntary, written consent for use in its grievance procedures; and
- Evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct or is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

Supportive Measures

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

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

~~Sexual Assault and Domestic Violence Counselors~~

~~For further information about services provided by sexual assault and domestic violence counselors on campus, see AP 3540 Sexual and Other Assaults on Campus and in Campus Programs.~~

~~Removal of Respondent Pending Final Determination~~

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

~~Emergency Removal~~

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

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

~~The District's Title IX Coordinator or designee, the Chief of Police or designee, or the Superintendent/President will conduct the individualized safety and risk analysis. The Title IX Coordinator is an authorized designee of the President for purposes of Withdrawal of Consent to be on Campus under *AP 5520 Student Discipline and Due Process*.~~

~~If the District's Title IX Coordinator or designee, the Chief of Police or designee, or the Superintendent/President determines emergency removal is appropriate, he/she/they or designee will provide the person the District is removing from campus on an emergency basis with withdrawal of consent to be on campus. Please refer to the procedure for withdrawal of consent to be on campus under *AP 5520 Student Discipline and Due Process*, or as an interim suspension or other student conduct measure under AP 5520.~~

~~The District's Title IX Coordinator or designee, the Chief of Police or designee, or the Superintendent/President will determine whether the emergency removal from campus order is warranted after considering information provided by the Respondent challenging the emergency removal. The Title IX Coordinator is an authorized designee of the President for purposes of Withdrawal of Consent to be on Campus under AP 5520.~~

~~Administrative Leave~~

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

Formal Complaint Grievance Process

Written Notice ~~to Parties~~ of Allegations

Upon receipt of a formal complaint initiation of these grievance procedures, the Title IX Coordinator District will provide the following notice in writing, to notify the Parties of the following with sufficient time for the Parties to prepare a response before any initial interview:

- Notice of the The District's Title IX grievance process and any informal resolution process;
- ~~Notice of the allegations of alleged sexual harassment with sufficient details known at the time and with sufficient time to prepare a response before any initial interview;~~
- ~~Statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;~~
- ~~Notice that the Parties may have Advisor of their choice, who may be, but is not required to be, an attorney;~~
- ~~Notice that the Parties may inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including the evidence upon which the District does not intend to rely in reaching a determination regarding responsibility, and inculpatory or exculpatory evidence whether obtained from a Party or other source;~~
- ~~Inform the Parties of any provision in the District's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process; and~~
- Sufficient information available at the time to allow the Parties to respond to the allegations, including the identities of the Parties involved in the incident(s), the conduct alleged to constitute sex discrimination, and the date(s) and locations(s) of the alleged incident(s);
- Retaliation is prohibited; and
- The Parties are entitled to an equal opportunity to access the relevant and otherwise permissible evidence upon the request of any party.
- ~~For student Parties, notice regarding appropriate counseling resources the District has developed and maintains.~~

If, in the course of an investigation, the District decides to investigate allegations of sex discrimination by the Respondent toward about the Complainant ~~or Respondent~~ that are not included in the written notice provided ~~above or that are included in a consolidated Complaint~~, the ~~Title IX Coordinator~~ District will provide notice in writing of the additional allegations to the Parties.

Dismissal of ~~Formal a~~ Complaint

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

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

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

- ~~If at any time during the investigation or hearing: a Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations;~~
- ~~If the Respondent is no longer enrolled or employed by the District; or~~

- ~~If there are specific circumstances that prevent the District from gathering evidence sufficient to reach a determination regarding responsibility as to the formal complaint or allegations.~~

The District may dismiss a Complaint of sex discrimination if:

- The District is unable to identify the Respondent after taking reasonable steps to do so;
- The Respondent is not participating in the District's education program or activity and is not employed by the District;
- The Complainant voluntarily withdraws in writing any or all of the allegations in the Complaint, the Title IX Coordinator declines to initiate a Complaint, and the District determines that, without the Complainant's withdrawn allegations, the conduct that remains alleged in the Complaint, if any, would not constitute sex discrimination under Title IX even if proven; or
- The District determines the conduct alleged in the Complaint, even if proven, would not constitute sex discrimination under Title IX. Before dismissing the Complaint, the District will make reasonable efforts to clarify the allegations with the Complainant.

If the District dismisses the ~~formal~~ Complaint or any allegations, the Title IX Coordinator shall simultaneously provide the Parties with written notice of the dismissal and reason. The District will also notify the Parties of their right to appeal. Upon dismissal, the District will promptly notify the Complainant in writing of the basis for the dismissal. If the dismissal occurs after the Respondent has been notified of the allegations, then the District will notify the Parties of the dismissal and the basis for the dismissal simultaneously in writing.

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

The District will notify the Complainant that a dismissal may be appealed and will provide the Complainant with an opportunity to appeal the dismissal of a Complaint. If the dismissal occurs after the Respondent has been notified of the allegations, then the District will also notify the Respondent that the dismissal may be appealed.

Appeal of Dismissal of Complaint

A Complainant may appeal the dismissal of a Complaint or any allegations on the following bases no later than **five business days from the date of the District's notice of dismissal of a Complaint or any allegations**:

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available when the **District dismissed the Complaint**; and
- The Title IX Coordinator, Investigator, or Decision-Maker had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that would change the outcome.

If the Complainant appeals the dismissal of the Complaint or any allegations, the **District** will:

- Notify the Parties of any appeal within five business days of receiving the Complainant’s appeal, including notice of the allegations, if notice was not previously provided to the Respondent;
- Allow the Respondent at least ten business days from the date of receipt of the appeal to submit a written statement in support of, or challenging, the outcome;
- Implement appeal procedures equally for the Parties;
- Ensure that the Decision-Maker for the appeal did not take part in an investigation of the allegations or dismissal of the Complaint;
- Ensure that the Decision-Maker for the appeal has been trained consistent with the Title IX regulations; and
- Notify the Parties of the result of the appeal and the rationale for the result within 45 calendar days after the Decision-Maker on appeal receives the response to the appeal or the last day to provide a response.

If a Complaint is dismissed, the District will:

- Offer supportive measures to the Complainant as appropriate;
- If the Respondent has been notified of the allegations, offer supportive measures to the Respondent as appropriate; and
- Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that sex discrimination does not continue or recur within the District’s education program or activity.

~~Consolidation of Formal Complaints~~

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

~~Equitable Treatment of the Parties~~

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

~~Statement of Presumption of Non-Responsibility~~

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

~~Bias or Conflict of Interest~~

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

~~interests of the Decision Maker in the process. The District will ensure that the Title IX Coordinator, investigator, Decision Maker, and facilitator receive training on:~~

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

Timeline for Completion

~~The District will undertake its grievance process promptly and as swiftly as possible. The District will complete the investigation and its determination regarding responsibility or the informal resolution process within 210 calendar days.~~

~~When appropriate, the Title IX Coordinator may determine that good cause exists to extend 210 calendar day period to conduct a fair and complete investigation, to accommodate an investigation by law enforcement, to accommodate the unavailability of witnesses or delays by the Parties, to account for District breaks or vacations, or due to the complexity of the investigation. The District will provide notice of this extension to the Complainant and Respondent in writing and include the reason for the delay and anticipated timing of completion.~~

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

Role of Advisor

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

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

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

Confidentiality Agreements

To protect the privacy of those involved, the Parties and Advisors are required to sign a confidentiality agreement prior to attending an interview or otherwise participating in the District's grievance process. The confidentiality agreement restricts ~~dissemination of any of the evidence subject to inspection and review or use of this evidence for any purpose unrelated to the Title IX grievance process~~ unauthorized disclosure of information and evidence obtained solely through the grievance procedure. The

confidentiality agreement will not restrict the ability of either Party to discuss the allegations under investigation.

Use of Privileged Information

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

Student Complainant Requests for Confidentiality

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

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

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

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

Investigations

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

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

The District will provide for adequate, reliable, and impartial investigation of Complaints.

Burden of Gathering Evidence

The burden is on the District—not on the Parties—to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.

Opportunity to Present Witnesses and Evidence

The District will provide an equal opportunity for the Parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and otherwise permissible.

Evidence

The District will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance.

The District will provide each Party with an equal opportunity to access the evidence that is relevant to the allegations of sex discrimination and otherwise permissible, in the following manner:

- The District will provide the parties with an equal opportunity to access the relevant and otherwise permissible evidence upon the request of any Party];
- The District will provide a reasonable opportunity to respond to the evidence or the accurate description of the evidence; and
- The District will take reasonable steps to prevent and address the Parties’ unauthorized disclosure of information and evidence obtained solely through the grievance procedures. Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the Complaint of sex discrimination are authorized.

Trained investigators

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

Gathering Evidence and Burden of Proof

~~The District, not the Parties, has the responsibility to gather information and interview witnesses. When the investigator evaluates the evidence, he/she/they will do so using the preponderance of the evidence standard. After considering all the evidence gathered, the investigator will decide whether it is more likely than not that reported conduct occurred.~~

Student Complainants should be aware that any evidence available but not disclosed during the investigation might not be considered at a subsequent hearing, if a hearing is required under this procedure. Written evidence submitted by a Party is limited to 10,000 words.

Evidence of Past Sexual History

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

- The investigator or Decision-Maker shall not consider ~~the prior or subsequent sexual history between the Complainant and anyone other than the Respondent for any reason unless directly relevant to prove that physical injuries alleged to have been inflicted by the Respondent were inflicted by another individual the Complainant's prior sexual history unless such questions or evidence is offered to prove that someone other than the Respondent committed the alleged conduct;~~ or
- ~~The investigator or Decision-Maker shall not consider the existence of a dating relationship or prior or subsequent consensual sexual relations between the Complainant and the Respondent unless the evidence is relevant to how the Parties communicated consent in prior or subsequent consensual sexual relations.~~
- ~~The investigator or Decision-Maker shall not consider the Complainant's prior sexual behavior unless the questions or evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.~~
 - Where the investigator or Decision-Maker allows consideration of questions or evidence about a dating relationship or prior or subsequent consensual sexual relations between the Complainant and the Respondent ~~pursuant to this circumstance~~, the mere fact that the Complainant and Respondent engaged in other consensual sexual relations with one another is never sufficient, by itself, to establish that the conduct in question was consensual.

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

Notice of Investigative Interview

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

Evidence Review

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

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

Investigative Report

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

- A description of the circumstances giving rise to the ~~formal~~ complaint;
- A description of the procedural steps taken during the investigation, including all individuals contacted and interviewed;

- A summary of the testimony of each witness the investigator interviewed;
- ~~An analysis of relevant evidence collected during the investigation, including a list of relevant documents;~~
- A description of all evidence gathered through the investigation;
- A specific finding as to whether the allegations occurred using a preponderance of the evidence standard; and
- Any other information deemed appropriate by the District.

The investigator will not make a determination regarding responsibility.

~~The investigator may redact information not directly related to the allegations or privileged information. However, the investigator will keep a log of information he/she/they do not produce to the Parties. The investigator will provide this log only to the Title IX Coordinator. The Title IX Coordinator will not disclose the log to the Parties but will maintain the log in the Title IX Coordinator's file, in the event it later becomes relevant.~~

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

Hearing

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

Notice

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

Hearing Format

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

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

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

~~The Decision-Maker shall provide an explanation of the meaning of the preponderance of the evidence standard, and affirm that it shall apply to adjudications under this procedure. The preponderance of the~~

~~evidence standard is met if the District determines that it is more likely than not that the alleged misconduct occurred, based on the facts available at the time of the decision.~~

~~Decision-Maker~~

~~The Decision-Maker will be free from conflict of interest or bias, including bias for or against Complainants or Respondents. If the Complainant or Respondent believes the Decision-Maker has a conflict of interest, the Party shall inform the Title IX Coordinator in writing as soon as possible and within five business days after being notified of the Decision-Maker. The Title IX Coordinator will evaluate the information and determine whether to proceed with the Decision-Maker or select a different Decision-Maker.~~

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

~~Presenting Witnesses~~

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

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

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

~~Cross-Examination~~

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

~~Advisors may only ask relevant cross-examination and other questions of a Party or witness. Before a Complainant, Respondent, or witness answers a cross-examination or other question, the Decision-Maker must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. The Decision-Maker need not provide a lengthy or complicated explanation in support of a relevance determination.~~

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

~~The Decision-Maker may consider statements made by Parties or witnesses that are otherwise permitted under the Title IX regulations, even if those Parties or witnesses do not participate in cross-examination at the live hearing, in reaching a determination regarding responsibility in the Title IX grievance process. For example, the Decision-Maker may consider statements made by the Parties and witnesses during the investigation, emails or text exchanges between the Parties leading up to the alleged sexual harassment, and statements about the alleged sexual harassment that satisfy the regulation's relevance rules, regardless of whether the Parties or witnesses submit to cross-examination at the live hearing.~~

~~The Decision-Maker may also consider police reports, Sexual Assault Nurse Examiner documents, medical reports, and other documents even if those documents contain statements of a party or witness who is not cross-examined at the live hearing.~~

Questioning the Parties and Witnesses

~~The District will provide a process that enables the Decision-Maker to question Parties and Witnesses to adequately assess a Party's or Witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex discrimination.~~

~~The District will use the following steps to complete this process:~~

~~The Decision-Maker will request the Parties participation in meetings to question the Party and invite the Parties to submit questions for the Decision-Maker's consideration when meeting with the Parties. The Decision-Maker will schedule and conduct separate meetings with the Parties. The meetings will be in-person or with technology enabling the Party and Decision-Maker to see and hear each other in real time. During each meeting, the Decision-Maker will ask questions of the Party and allow the Party to comment on the evidence collected during the investigation. The Decision-Maker may meet with a Party more than once, based on the Decision-Maker's judgment. The Decision-maker will meet with other witnesses, if needed based on the Decision-Maker's judgment.~~

Determinations of Responsibility Whether Sex Discrimination Occurred

~~When the Decision-Maker makes a determination of responsibility or non-responsibility, the Decision-Maker will issue a written determination regarding responsibility, no later than 30 business days after the date that the hearing ends.~~

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

~~The written determination will include:~~

- ~~• Identification of the allegations potentially constituting Title IX sexual harassment as defined in these procedures;~~
- ~~• A description of the procedural steps taken from the receipt of the formal complaint through the determination, including who conducted the investigation and gave notifications to the Parties. The determination will also state when, where, and the date the investigator interviewed the Parties and witnesses, conducted site visits, the methods used to gather other evidence. The procedural section should also discuss the dates and how the Parties were provided the~~

~~opportunity to review and inspect evidence and the date of any hearings held and who attended the hearing;~~

- ~~• Findings of fact supporting the determination. In making these findings, the Decision-Maker will focus on analyzing the findings of fact that support the determination of responsibility or non-responsibility;~~
- ~~• Conclusions regarding the application of the District's code of conduct to the facts;~~
- ~~• A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility;~~
- ~~• A statement of, and rationale for, any disciplinary sanctions the District imposes on the Respondent;~~
- ~~• A statement of whether the District will provide the Complainant with remedies designed to restore or preserve equal access to the District's education program or activity;~~
- ~~• The District need not disclose to the Respondent remedies that do not affect him/her/them as part of the written determination. The District can inform the Respondent that it will provide remedies to the Complainant. However, the District will inform the Complainant of the sanctions against the Respondent;~~
- ~~• The District's procedures and permissible bases for the Complainant and Respondent to appeal.~~

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

Following an investigation and evaluation of all relevant and otherwise permissible evidence, the District will:

- Use the preponderance of the evidence standard of proof to determine whether sex discrimination occurred. The standard of proof requires the Decision-Maker to evaluate relevant and otherwise permissible evidence for its persuasiveness. If the Decision-Maker is not persuaded by a preponderance of the evidence that sex discrimination occurred, whatever the quantity of the evidence is, the Decision-Maker will not determine that sex discrimination occurred.
- Notify the Parties simultaneously in writing of the determination whether sex discrimination occurred under Title IX including the rationale for such determination, and the procedures and permissible bases for the Complainant and Respondent to appeal;
- Not impose discipline on a Respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the grievance procedures that the Respondent engaged in prohibited sex discrimination.
- If there is a determination that sex discrimination occurred, the Title IX Coordinator will, as appropriate:
 - Coordinate the provision and implementation of remedies to the Complainant and other people the District identifies as having had equal access to the District's education program or activity limited or denied by sex discrimination;
 - Coordinate the imposition of any disciplinary sanctions on the Respondent, including notification to the Complainant of any such disciplinary sanctions; and
 - Take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the District's education program or activity.
- Comply with the grievance procedures before the imposition of any disciplinary sanctions against the Respondent; and

- Not discipline a Party, Witness, or others participating in the Title IX grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex discrimination occurred.

Appeal of Determinations

The District offers the following process for appeals from a determination whether sex discrimination occurred: A Party may appeal the determination whether sex discrimination occurred on the following bases no later than five business days from the date of the District’s notice of determination whether sex discrimination occurred:

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available when the District dismissed the Complaint; and
- The Title IX Coordinator, Investigator, or Decision-Maker had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that would change the outcome.

If a Party appeals the determination whether sex discrimination occurred, the District will:

- Notify the Parties of any appeal within five business days of receiving the Party’s appeal;
- Allow the non-appealing Party at least ten business days from the date of receipt of the appeal to submit a written statement in support of, or challenging, the determination;
- Implement appeal procedures equally for the Parties;
- Ensure that the Decision-Maker for the appeal did not take part in an investigation of the allegations or dismissal of the Complaint;
- Ensure that the Decision-Maker for the appeal has been trained consistent with the Title IX regulations; and
- Notify the Parties of the result of the appeal and the rationale for the result within 45 calendar days after the Decision-Maker on appeal receives the response to the appeal or the last day to provide a response.

Disciplinary Sanctions and Remedies

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

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

- ~~• Providing an escort to ensure that the Complainant can move safely between classes and activities;~~
- ~~• Ensuring that the Complainant and Respondent do not attend the same classes or work in the same work area;~~
- ~~• Providing counseling services or a referral to counseling services;~~
- ~~• Providing medical services or a referral to medical services;~~
- ~~• Providing academic support services, such as tutoring;~~

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

~~Possible disciplinary sanctions for student Respondents include written or verbal reprimand, required training or counseling, non-academic probation, suspension, and expulsion. Possible disciplinary sanctions for employee Respondents include written or verbal reprimand, required training or counseling, reduction in pay, demotion, suspension, or discharge, in accordance with any applicable collective bargaining agreement or Board Policies and Administrative Procedures.~~

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

~~A Complainant or Respondent may appeal the District's determination regarding responsibility or the dismissal of a formal complaint or any allegations. A Complainant or Respondent must submit a written appeal within 5 business days from the date of the notice of determination regarding responsibility or from the date of the District's notice of dismissal of a formal complaint or any allegations.~~

Grounds for Appeal

~~The District will appoint one or more persons to serve as the Decision-Maker on Appeal. The Decision-Maker on Appeal may not be the original Decision-Maker who made the decision the appellant is challenging, nor the Title IX Coordinator or investigator. In filing an appeal of the District's determination regarding responsibility or the District's dismissal of a formal complaint, the Party must state the grounds for appeal and a statement of facts supporting those grounds. The grounds for appeal are as follows:~~

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

Appeal Procedure

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

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

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

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

Informal Resolution

~~If the District determines that a formal complaint is appropriate for informal resolution, it may provide the Parties with the opportunity to participate in an informal resolution process, including mediation, at any time prior to reaching a determination regarding responsibility.~~

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

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

~~The informal resolution process is not available to resolve allegations that an employee sexually harassed a student.~~

In lieu of resolving a Complaint through the District's Title IX grievance procedures, the Parties may instead elect to participate in an informal resolution process. The District does not offer informal resolution to resolve a Complaint when such a process would conflict with Federal, State, or local law. The District will inform the Parties in writing of any informal resolution process it offers and determines is appropriate, if any. Before the initiation of an informal resolution process, the District will explain in writing to the Parties:

- The allegations;
- The requirements of the informal resolution process;
- That any Party has the right to withdraw from the informal resolution process and initiate or resume grievance procedures at any time before agreeing to a resolution;
- That if the Parties agree to a resolution at the end of the informal resolution process, the Parties cannot initiate or resume grievance procedures arising from the same allegations;
- The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the Parties; and
- What information the District will maintain and whether and how the District could disclose such information for use in Title IX grievance procedures if such procedures are initiated or resumed.

Supportive Measures

The District will offer and coordinate supportive measures as appropriate for the Complainant and Respondent to restore or preserve that person's access to the District's education program or activity or provide support during the District's Title IX grievance procedures or during the informal resolution process. For complaints of sex-based harassment, these supportive measures may include but are not limited to: counseling; extensions of deadlines and other course-related adjustments; campus escort services; increased security and monitoring of certain areas of the campus; restrictions on contact applied to one or more Parties; leaves of absence; changes in class, work, District-provided housing, or extracurricular or any other activity, regardless of whether there is a comparable alternative; and training and education programs related to sex-based harassment.

Disciplinary Sanctions and Remedies

Possible disciplinary sanctions for student respondents include written or verbal reprimand, required training or counseling, non-academic probation, suspension, and expulsion. Possible disciplinary sanctions for employee Respondents include written or verbal reprimand, required training or counseling, ~~reduction in pay [if negotiated or available through policy or procedure]~~, demotion, suspension, or discharge.

- The District may also provide remedies, which may include, but are not limited to: Providing an escort to ensure that the Complainant can move safely between classes and activities;
- Ensuring that the Complainant and Respondent do not attend the same classes or work in the same work area;
- Providing counseling services or a referral to counseling services;
- Providing medical services or a referral to medical services;
- Providing academic support services, such as tutoring;
- Arranging for a Complainant, if a student, to re-take a course or withdraw from a class without penalty, including ensuring that any changes do not adversely affect the Complainant's academic record; and

Reviewing any disciplinary actions taken against the Complainant to see if there is a causal connection between the harassment and the misconduct that may have resulted in the Complainant's discipline.

Retaliation Prohibited

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

Grievance Procedures for Complaints of Sex-Based Harassment Involving Student Parties

(For complaints of sex discrimination not including sex-based harassment involving students or complaints of sex-based harassment not involving students, see the preceding section entitled, "Grievance Procedures for Complaints of Sex Discrimination under Title IX.")

Introduction

The District has adopted the following Title IX grievance procedures that provide for the prompt and equitable resolution of complaints of sex-based harassment involving a student complainant(s) or a student respondent(s). These procedures ensure trauma-informed and impartial investigation of complaint of sex-based harassment.

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

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

Who May File a Complaint

The following people have a right to make a Complaint of sex-based harassment, requesting that the District investigate and make a determination about alleged sex-based harassment under Title IX:

- A "complainant," which includes:

- A student or employee of the District who is alleged to have been subjected to conduct that could constitute sex-based harassment under Title IX; or
- A person other than a student or employee of the District who is alleged to have been subjected to conduct that could constitute sex-based harassment under Title IX at a time when that individual was participating or attempting to participate in the District's education program or activity;
- A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a Complainant; or
- The District's Title IX Coordinator.

Note that a person is entitled to make a Complaint of sex-based harassment only if he/she/they is alleged to have been subjected to the sex-based harassment, if he/she/they has a legal right to act on behalf of such person, or if the Title IX Coordinator initiates a Complaint consistent with Title IX regulations.

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

Obligations of Employees

District **employees who are** Responsible Employees are not confidential resources and are required to report allegations of sexual harassment to the District's Title IX Coordinator promptly. All other employees are encouraged to report allegations to the Title IX Coordinator but are not required to do so. An employee who has a confidential relationship with a student or students by law is exempt from having to report sexual harassment concerns to the Title IX coordinator or other designated employee, unless otherwise required by law.

The District has designated the following employees as Responsible Employees:

Responsible are required to report all relevant information they know about sex-based harassment including the name of the Respondent, the Complainant, any other Witnesses, and the date, time, and location of the alleged incident.

Support Person or Advisor

A student party has the opportunity to have a support person or advisor accompany the student party during any stage of the grievance process described below.

A student party has a right to consult with an attorney, at the party's own expense, at any stage of the grievance process if they wish to do so. An attorney may serve as a support person or advisor.

Sexual Assault and Domestic Violence Counselors

For further information about services provided by sexual assault and domestic violence counselors on campus, see AP 3540 Sexual and Other Assaults on Campus and in Campus Programs.

Consolidation of Complaints

The District may consolidate Complaints of sex-based harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party,

when the allegations of sex-based harassment arise out of the same facts or circumstances. When more than one complainant or more than one respondent is involved, references below to a party, complainant, or respondent include the plural, as applicable.

Emergency Removal

The District may remove a non-employee Respondent from the District's education program or activity on an emergency basis after it conducts an individualized safety and risk analysis and determines that an imminent and serious threat to the health or safety of a complainant or any students, employees, or other individual arising from the allegations of sex-based harassment justifies removal.

The District's Title IX Coordinator or designee, the Chief of Police or designee, or the Superintendent/President or designee will conduct the individualized safety and risk analysis.

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

Administrative Leave

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

Student Complainant Requests for Confidentiality

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

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

If the District determines that it can honor the student-Complainant's request for confidentiality, it shall still take reasonable steps to respond to the Complaint, consistent with the request, to limit the effects of

the alleged sexual harassment and prevent its recurrence without initiating an investigation or revealing the identity of the Complainant. The District shall also take immediate steps to provide for the safety of the Complainant while keeping the Complainant's identity confidential as appropriate. The District shall notify the Complainant that the request for confidentiality will limit the steps the District will take to respond to the report of sexual harassment.

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

Basic Requirements of Title IX Grievance Procedures for Complaints of Sex-Based Harassment Involving Student Parties

The District will treat complainants and respondents equitably.

The District requires that any Title IX Coordinator, investigator, or decision-maker not have a conflict of interest or bias for or against complainants or respondents generally or an individual Complainant or Respondent. As long as there is no conflict of interest or bias, a decision-maker may be the same person as the Title IX Coordinator or investigator.

The District presumes that the Respondent is not responsible for the alleged sex-based harassment until a determination is made at the conclusion of its grievance procedures.

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

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

Timeframes and Extensions

The District has established the following timeframes for the major stages of the grievance procedures:

- **Complaint evaluation:** The District will determine whether to dismiss or investigate a Complaint within ten business days.
- **Complaint investigation:** The District will complete an adequate, reliable, and impartial investigation of Complaints within 120 calendar days.
- **Questioning the Parties and Witnesses:** The District will complete the process that enables the Decision-Maker to question the Parties and Witnesses no later than 30 calendar days after the date that the investigation concludes.

- **Live Hearing (if any):** The District will conduct a live hearing no later than 30 calendar days after the date that the Decision-Maker completes the process that enables the Decision-Maker to question the Parties and Witnesses.
- **Determination Whether Sex-Based Harassment Occurred:** The District will issue a written determination whether sex-based harassment occurred no later than 20 business days after the date that the Decision-Maker completes the process that enables the Decision-Maker to question the Parties and Witnesses or the date that the live hearing (if any) concludes, whichever occurs later.
- **Appeal (if any):** A Complainant or Respondent may submit a written appeal no later than five business days from the date of the notice of determination whether sex-based harassment occurred or from the date of the District's notice of dismissal of a Complaint or any allegations. If a Complainant or Respondent submits an appeal to the District, the District will notify the other Party in writing within five business days of receiving a Party's appeal and allow the non-appealing Parties at least ten business days from the date of receipt of the appeal to submit a written statement in support of, or challenging, the outcome. The appeal Decision-Maker will issue a written decision on whether to grant or deny the appeal, and the rationale for the decision, within 45 calendar days after the Decision-Maker on appeal receives the response to the appeal or the last day to provide a response.

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

A Party may request an extension from the Title IX Coordinator in writing by explaining the reason for the delay and the length of the continuance requested. The Title IX Coordinator will notify the Parties and document the grant or denial of a request for extension or delay as part of the case recordkeeping.

Privacy

The District will take reasonable steps to protect the privacy of the Parties and Witnesses during its grievance procedures. These steps will not restrict the ability of the Parties to obtain and present evidence, including by speaking to Witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures. The parties cannot engage in retaliation, including against witnesses.

Evidence

The District will objectively evaluate all evidence that is relevant and otherwise permissible—including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness.

Student Complainants should be aware that any evidence available but not disclosed during the investigation might not be considered later in the grievance process. Written evidence submitted by a Party is limited to 10,000 words.

The following types of evidence, and questions seeking that evidence, are impermissible (i.e., will not be accessed or considered, except by the District to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether the evidence or question is relevant:

- Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- A Party's or Witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the Party or Witness, unless District obtains that Party's or Witness's voluntary, written consent for use in its grievance procedures; and
- Evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct or is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the Complainant and respondent does not by itself demonstrate or imply the Complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.
- Evidence that relates to the existence of a dating relationship or prior or subsequent consensual sexual relations between the Complainant and the Respondent unless the evidence is relevant to how the Parties communicated consent in prior or subsequent consensual sexual relations. Before allowing the consideration of any evidence that relates to the Complainant's sexual interests or prior sexual conduct, the investigator or Decision-Maker shall provide a written explanation to the Parties as to why consideration of the evidence is consistent with this procedure.

Written Notice of Allegations

Upon initiation of these Title IX grievance procedures, District will notify the Parties in writing of the following with sufficient time for the parties to prepare a response before any initial interview:

- The District's Title IX grievance procedures and any informal resolution process;
- Sufficient information available at the time to allow the Parties to respond to the allegations, including the identities of the Parties involved in the incident(s), the conduct alleged to constitute sex-based harassment, and the date(s) and location(s) of the alleged incident(s);
- Retaliation is prohibited;
- The Respondent is presumed not responsible for the alleged sex-based harassment until a determination is made at the conclusion of the grievance procedures. Prior to such a determination, the Parties will have an opportunity to present relevant and otherwise permissible evidence to a trained, impartial decision-maker;
- The Parties may have an Advisor of their choice who may be, but is not required to be, an attorney;

- The Parties are entitled to an equal opportunity to access the relevant and otherwise permissible evidence or an investigative report that accurately summarizes this evidence. The Parties are entitled to an equal opportunity to access the relevant and permissible evidence upon the request of any Party]; and
- The District's *BP/AP 5500 Standards of Student Conduct* or other relevant policy or procedure containing these provisions prohibits knowingly making false statements or knowingly submitting false information during the grievance procedures.
- For a student Party, notice regarding appropriate counseling resources the District developed and maintains.

If, in the course of an investigation, the District decides to investigate additional allegations of sex-based harassment by the Respondent toward the Complainant that are not included in the written notice or that are included in a consolidated Complaint, the District will provide written notice of the additional allegations to the Parties.

Dismissal of a Complaint:

The District may dismiss a Complaint of sex-based harassment involving student parties if:

- The District is unable to identify the Respondent after taking reasonable steps to do so;
- The Respondent is not participating in the District's education program or activity and is not employed by the District;
- The Complainant voluntarily withdraws in writing of any or all of the allegations in the Complaint, the Title IX Coordinator declines to initiate a Complaint, and District determines that, without the Complainant's withdrawn allegations, the conduct that remains alleged in the Complaint, if any, would not constitute sex-based harassment under Title IX even if proven; or
- The District determines the conduct alleged in the Complaint, even if proven, would not constitute sex-based harassment under Title IX. Before dismissing the Complaint, the District will make reasonable efforts to clarify the allegations with the Complainant.

Upon dismissal, the District will promptly notify the Complainant in writing of the basis for the dismissal. If the dismissal occurs after the Respondent has been notified of the allegations, then the District will notify the Parties of the dismissal and the basis for the dismissal simultaneously in writing.

The District will notify the Complainant that a dismissal may be appealed and will provide the Complainant with an opportunity to appeal the dismissal of a Complaint. If the dismissal occurs after the Respondent has been notified of the allegations, then the District will also notify the Respondent that the dismissal may be appealed. For more information on the right to appeal, see the Appeals section below.

If a Complaint is dismissed, the District will:

- Offer supportive measures to the Complainant as appropriate;
- If the Respondent has been notified of the allegations, offer supportive measures to the Respondent as appropriate; and

- Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that sex-based harassment does not continue or recur within the District’s education program or activity.

Investigation

The District will provide for adequate, reliable, and impartial investigation of Complaints.

Burden of Gathering Evidence

The burden is on the District—not on the Parties—to conduct an investigation that gathers sufficient evidence to determine whether sex-based harassment occurred.

Participation

The District will provide to a Party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all meetings or proceedings with sufficient time for the Party to prepare to participate. The District will provide the Parties with the same opportunities to be accompanied to any meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney.

- The District will not limit the choice or presence of the advisor for the Complainant or Respondent in any meeting or proceeding.
- The District may establish restrictions regarding the extent to which the advisor may participate in these grievance procedures, as long as the restrictions apply equally to the Parties.

The District will provide the Parties with the same opportunities, if any, to have people other than the advisor of the Party’s choice present during any meeting or proceeding involving the Party.

Opportunity to Present Witnesses and Evidence

The District will provide an equal opportunity for the Parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and otherwise permissible. The District has discretion to determine whether the Parties may present expert witnesses as long as the determination applies equally to the Parties.

Evidence

The District will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is permissible regardless of relevance.

The District will provide each Party and the Party’s advisor, if any, with an equal opportunity to access the evidence that is relevant to the allegations of sex-based harassment and otherwise permissible, in the following manner:

- The District will provide an equal opportunity to access either the relevant and otherwise permissible evidence, or the same written investigative report that accurately summarizes this

evidence. [If the District provides access to an investigative report, include the following sentence: The District will further provide the Parties with an equal opportunity to access the relevant and otherwise permissible evidence upon the request of any Party.];

- The District will provide the Parties with a reasonable opportunity to review and respond to the evidence or the investigative report. If the District conducts a live hearing as part of its grievance procedures, it will provide this opportunity to review the evidence in advance of the live hearing. The District may decide whether to provide this opportunity to respond prior to the live hearing, during the live hearing, or both prior to and during the live hearing.; and
- The District will take reasonable steps to prevent and address the Parties' and their advisors' unauthorized disclosure of information and evidence obtained solely through the sex-based harassment grievance procedures.

Questioning the Parties and Witnesses

The District will provide a process that enables the Decision-Maker to question Parties and Witnesses to adequately assess a Party's or Witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex-based harassment.

If the District chooses not to conduct a live hearing, the District's process for proposing and asking relevant and otherwise permissible questions and follow-up questions of the Parties and Witnesses, including questions challenging credibility, will:

- Allow the Investigator or Decision-Maker to ask such questions during individual meetings with a Party or Witness;
- Allow each Party to propose such questions that the Party wants asked of any Party or Witness and have those questions asked by the Investigator or Decision-Maker during one or more individual meetings, including follow-up meetings, with a Party or Witness, subject to the procedures for evaluating and limiting questions discussed below; and
- Provide each Party with an audio or audiovisual recording or transcript with enough time for the Party to have a reasonable opportunity to propose follow-up questions.

If the District chooses to conduct a live hearing, the District's process for proposing and asking relevant and otherwise permissible questions and follow-up questions of Parties and Witnesses, including questions challenging credibility, will allow the Decision-Maker to ask such questions, and either:

- Allow each Party to propose such questions that the Party wants asked of any Party or Witness and have those questions asked by the Decision-Maker, subject to the procedures for evaluating and limiting questions discussed below; or
- Allow each Party's advisor to ask any Party or Witness such questions, subject to the procedures for evaluating and limiting questions discussed below. Such questioning will never be conducted by a Party personally. If the District permits advisor-conducted questioning and a Party does not have an advisor to ask questions on their behalf, the District will provide the Party with an advisor of the District's choice, without charge to the Party, for the purpose of advisor-conducted

questioning. In those instances, the District will not appoint a confidential employee and may appoint, but is not required to appoint, an attorney to serve as an advisor.

Procedures for the Decision-Maker to evaluate the questions and limitations on questions

The Decision-Maker will determine whether a proposed question is relevant and otherwise permissible before the question is posed and will explain any decision to exclude a question as not relevant or otherwise impermissible. Questions that are repetitive, unclear, or harassing of the Party or Witness being questioned will not be permitted. The Decision-Maker will give a Party an opportunity to clarify or revise a question that the Decision-Maker determines is unclear or harassing. If the Party sufficiently clarifies or revises the question, the question will be asked.

Refusal to respond to questions and inferences based on refusal to respond to questions

The Decision-Maker may choose to place less or no weight upon statements by a Party or Witness who refuses to respond to questions deemed relevant and permissible. The Decision-Maker will not draw an inference about whether sex-based harassment occurred based solely on a Party's or Witness's refusal to respond to such questions.

Procedures for a Live Hearing, if offered

The District will decide whether a live hearing is necessary to determine whether any sex-based harassment occurred. In making this decision, the District may consider whether the Parties elected to participate in the investigation and whether each Party had the opportunity to suggest questions to be asked of the other Party or witnesses, or both, during the investigation.

The District will conduct a live hearing with the Parties physically present in the same geographic location or, at the District's discretion or upon the request of either Party, will conduct the live hearing with the Parties physically present in separate locations with technology enabling the Decision-Maker and Parties to simultaneously see and hear the Party or Witness while that person is speaking.

Any cross-examination of a Party or a Witness shall not be conducted directly by a Party or a Party's advisor.

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

Generally, the Parties may not introduce evidence, including witness testimony, at the hearing that the Party did not identify during the investigation and that was available at the time of the investigation.

However, the Decision Maker has discretion to accept for good cause, or exclude, such new evidence offered at the hearing;

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

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

Determination Whether Sex Based Harassment Occurred

Following an investigation and evaluation of all relevant and otherwise permissible evidence, the District will:

- Use the preponderance of the evidence standard of proof to determine whether sex-based harassment occurred. The standard of proof requires the Decision Maker to evaluate relevant and otherwise permissible evidence for its persuasiveness. If the Decision Maker is not persuaded by a preponderance of the evidence that sex based harassment occurred, whatever the quantity of the evidence is, the Decision Maker will not determine that sex-based harassment occurred.
- Notify the Parties simultaneously in writing of the determination whether sex-based harassment occurred under Title IX including:
 - A description of the alleged sex-based harassment;
 - Information about the policies and procedures that the District used to evaluate the allegations;
 - The Decision Maker's evaluation of the relevant and otherwise permissible evidence and determination whether sex-based harassment occurred;
 - When the Decision Maker finds that sex-based harassment occurred, any disciplinary sanctions the District will impose on the Respondent, whether remedies other than the imposition of disciplinary sanctions will be provided by the District to the Complainant, and, to the extent appropriate, other students identified by the District to be experiencing the effects of the sex-based harassment; and
 - The District's procedures and permissible bases for the Complainant and Respondent to appeal.
- The District will not impose discipline on the Respondent for sex-based harassment prohibited by Title IX unless there is a determination at the conclusion of the Title IX grievance procedures that the Respondent engaged in prohibited sex-based harassment.
- If there is a determination that sex-based harassment occurred, as appropriate, the Title IX Coordinator will:
 - Coordinate the provision and implementation of remedies to the Complainant and other people the District identifies as having had equal access to the District's education program or activity limited or denied by sex-based harassment;
 - Coordinate the imposition of any disciplinary sanctions on the Respondent, including notification to the Complainant of any such disciplinary sanctions; and
 - Take other appropriate prompt and effective steps to ensure that sex-based harassment does not continue or recur within the District's education program or activity.
- Comply with the Title IX grievance procedures before the imposition of any disciplinary sanctions against a respondent; and

- Not discipline a Party, Witness, or others participating in the Title IX grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex-based harassment occurred.

The determination regarding responsibility becomes final either on the date that the District provides the Parties with the written determination of the result of any appeal, or, if no Party appeals, the date on which an appeal would no longer be considered timely.

Appeals

A Party may appeal the dismissal of a Complaint or any allegations or the determination whether sex-based harassment occurred on the following bases:

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available when the determination or dismissal was made; and
- The Title IX Coordinator, Investigator, or Decision-Maker had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that would change the outcome.

If a Party appeals a dismissal or determination whether sex-based harassment occurred, the District will:

- Notify the Parties in writing of any appeal, including notice of the allegations, if notice was not previously provided to the Respondent;
- Implement appeal procedures equally for the Parties;
- Ensure that the Decision-Maker for the appeal did not take part in an investigation of the allegations or dismissal of the Complaint;
- Ensure that the Decision-Maker for the appeal has been trained consistent with the Title IX regulations;
- Communicate to the Parties in writing that the District will provide the Parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
- Notify the Parties in writing of the result of the appeal and the rationale for the result.

Any additional procedures or bases for appeal the District offers will be equally available to all Parties.

Informal Resolution

In lieu of resolving a Complaint through the District's Title IX grievance procedures, the Parties may instead elect to participate in an informal resolution process. The District will not offer informal resolution to resolve a Complaint when such a process would conflict with Federal, State, or local law. The District will inform the Parties in writing of any informal resolution process it offers and determines is appropriate, if any. Before the initiation of an informal resolution process, the District will explain in writing to the Parties:

- The allegations;
- The requirements of the informal resolution process;
- That any party has the right to withdraw from the informal resolution process and initiate or resume grievance procedures at any time before agreeing to a resolution;
- That if the Parties agree to a resolution at the end of the informal resolution process, the Parties cannot initiate or resume grievance procedures arising from the same allegations;

- ~~The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties; and~~
- ~~What information the District will maintain and whether and how the District could disclose such information for use in Title IX grievance procedures if such procedures are initiated or resumed.~~

Supportive Measures

~~The District will offer and coordinate supportive measures as appropriate for the Complainant and Respondent to restore or preserve that person's access to the District's education program or activity or provide support during the District's Title IX grievance procedures or during the informal resolution process. For complaints of sex-based harassment, these supportive measures may include but are not limited to: counseling; extensions of deadlines and other course-related adjustments; campus escort services; increased security and monitoring of certain areas of the campus; restrictions on contact applied to one or more Parties; leaves of absence; changes in class, work, District-provided housing, or extracurricular or any other activity, regardless of whether there is a comparable alternative; and training and education programs related to sex-based harassment.~~

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

Disciplinary Sanctions and Remedies:

~~Following a determination that sex-based harassment occurred, the District may impose disciplinary sanctions on a student respondent including written or verbal reprimand, required training or counseling, non-academic probation, suspension, and expulsion. Following a determination that sex-based harassment occurred, the District may impose disciplinary sanctions on an employee respondent including written or verbal reprimand, required training or counseling, reduction in pay [**if negotiated or available through policy or procedure**], demotion [**if negotiated or available through policy or procedure**], suspension, or discharge. The District may also issue a no-contact directive against the Respondent following a determination that sex-based harassment occurred.~~

~~The District may also provide remedies, which may include, but are not limited to:~~

- ~~Providing an escort to ensure that the Complainant can move safely between classes and activities;~~
- ~~Ensuring that the Complainant and Respondent do not attend the same classes or work in the same work area;~~
- ~~Providing counseling services or a referral to counseling services;~~
- ~~Providing medical services or a referral to medical services;~~
- ~~Providing academic support services, such as tutoring;~~
- ~~Arranging for a Complainant, if a student, to re-take a course or withdraw from a class without penalty, including ensuring that any changes do not adversely affect the Complainant's academic record; and~~

- ~~Reviewing any disciplinary actions taken against the Complainant to see if there is a causal connection between the harassment and the misconduct that may have resulted in the Complainant's discipline.~~

Dissemination of Policy and Procedures

The District will provide its policy and procedures related to Title IX on its website and in each handbook, ~~or~~ catalog, announcement, bulletin, and application form that it makes available to ~~provided to~~ applicants for admission and employment, students, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the District.

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

Training

The District will provide a comprehensive trauma-informed training program to all employees on the District's obligation to address sex discrimination in its education program or activity, the scope of conduct that constitutes sex discrimination including sex-based harassment under Title IX, and all applicable notification and information requirements under Title IX regulations. The District will ensure that its Title IX Coordinator(s), investigators, Decision-Makers, facilitators of an information resolution process, and other persons who are responsible for implementing the District's grievance procedures or have the authority to modify or terminate supportive measures, have training on topics requires by Title IX regulations and State law and regulations. Title IX Coordinators, investigators, Decision-Makers, and any individual who facilitates an informal resolution process, on the definition of sexual harassment, the scope of the District's education program or activities, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including avoiding prejudgment of the facts at issue, conflicts of interest, and bias. Any materials used to train the District's Title IX Coordinator, investigators, Decision-Makers, and any person who facilitates an informal resolution process, will not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment. Materials for this training must include statistics on the prevalence of sexual harassment and sexual violence in the educational setting, and the differing rates at which students experience sexual harassment and sexual assault in the educational setting based on their race, sexual orientation, disability, gender, and gender identity. The District will make these training materials available upon request for inspection by members of the public.

File Retention

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

- For each complaint of sex discrimination: records documenting the informal resolution process (if any) or the grievance procedures, and the resulting outcome
- For each notification the Title IX Coordinator receives of information about conduct that reasonably may constitute sex discrimination under Title IX or this part, including notifications under 106.44(c)(1) or (2), records documenting the actions the District took to meet its obligations under Title IX regulations.
- All materials used to provide training pursuant to Title IX regulations.
 - ~~The original report or complaint;~~
 - ~~Any actions taken in response to the complaint, including supportive measures;~~
 - ~~The investigative report including all evidence gathered and any responses from the Parties;~~
 - ~~The District's determination regarding responsibility;~~

- ~~• Audio or audiovisual recording or transcript from a hearing;~~
- ~~• Records of any disciplinary sanctions imposed on the Respondent;~~
- ~~• Records of any remedies provided to the Complainant;~~
- ~~• Any appeal and the result;~~
- ~~• Any informal resolution and the result; and~~
- ~~• All materials used to train Title IX Coordinators, investigators, Decision-Makers, and any person who facilitates an informal resolution process. The District will make these training materials publicly available on its website.~~

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

Complaint Reporting

The Superintendent/President shall provide the Board, upon request, a report of complaints filed pursuant to this AP 3434. This report must disaggregate the complaints by complaint type (Student Complainant and Student Respondent, Student Complainant and Employee Respondent, Employee Complainant and Student Respondent, Employee Respondent 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.

See AP 5520 Student Discipline and Due Process

Offices of Primary Responsibility: Human Resources, Campus Police, Student Services – Activities and Advocacy

Date Adopted: December 14, 2021

Date Reviewed/Revised: April 19, 2022; November 14, 2023

Date Revised:

General Institution

This legally required procedure was revised to update references to BP 3433 Prohibition of Sex Discrimination under Title IX, AP 3433 Prohibition of Sex Discrimination under Title IX, and AP 3434 Responding to Sex Discrimination under Title IX. Mici 7-10-2024
To Sadika/Student Services 7-10-2024
Copy to Mia/General Counsel/IVP SLS 7-10-2024
Approved Nikki/Human Resources 8-8-2024

AP 3435 DISCRIMINATION AND HARASSMENT COMPLAINT PROCEDURES**References:**

Education Code Sections 212.5, 231.5, 66281.5, ~~and~~ 67386, and 87623;
Government Code Section 12950.1;
Title 5 Sections 59320, 59324, 59326, 59328, and 59300 et seq.;
Title 2 Sections 11023 and 11024

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

Reporting and Filing Complaints

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

Complaints

A Complaint is a written and signed statement filed with the District or the California Community Colleges Chancellor's Office that alleges harassment, discrimination, or retaliation in violation of the District's Board Policies, Administrative Procedures, or in violation of state or federal law. An informal complaint is any of the following: (1) An unwritten allegation of harassment, discrimination, or retaliation; (2) a written allegation of harassment, discrimination, or retaliation that falls outside the timelines for a formal complaint; or (3) a written complaint alleging harassment, discrimination, or retaliation filed by an individual who expressly indicates that they do not want to file a formal complaint.

Formal Complaints

Formal Complaints must be filed with the Chancellor of the California Community Colleges or the Executive Director of Human Resources unless the Party submitting the Formal Complaint alleges discrimination, harassment, or retaliation against the responsible district officer, in which case it should be submitted directly to the Superintendent/President or the Chancellor of the California Community Colleges.

Formal Complaints should be submitted on the form prescribed by the Chancellor of the California Community Colleges. A copy of the form will be available at the District Human Resources Department or Student Services – Activities and Advocacy.

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

A Formal Complaint must meet each of the following criteria:

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

If the Formal Complaint does not meet the requirements set forth above, the Executive Director of Human Resources will notify the Complainant and within 14 days that the complaint does not contain allegations of unlawful discrimination that are sufficient under this procedure to trigger an investigation. The Executive Director of Human Resources will specify why the complaint is defective. If the sole defect is that the Formal Complaint was filed outside the applicable proscribed timeline, the Executive Director of Human Resources will handle the matter as an informal complaint.

If the defect is based on the Complainant's failure to state sufficient facts to support a claim of unlawful discrimination, the Executive Director of Human Resources shall offer the Complainant an opportunity to proffer additional facts to support their claims through an intake interview, which shall be scheduled as soon as reasonably convenient for the Complainant and Executive Director of Human Resources or designee.

If, after the intake interview, the Executive Director of Human Resources determines that the Complainant has still not stated sufficient facts to support a claim of unlawful discrimination, the Executive Director of Human Resources shall provide the Complainant with a written determination explaining the basis for dismissing the complaint within 14 days of the intake interview. The Executive Director of Human Resources must also notify the Complainant of their right to appeal this determination directly to the

Chancellor of the California Community Colleges within 30 days from the date of the notice of dismissal.

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

The investigation of complaints must be assigned by the Executive Director of Human Resources to a neutral investigator. A neutral investigator means an outside investigator or an 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. Neutral investigators must be properly trained to conduct such investigations.

Who May File a Complaint: Any student, employee, or third party who believes they have been discriminated against or harassed by a student, employee, or third party in violation of this procedure and the related policy.

Where to File a Complaint: A student, employee, or third party who believes they have been discriminated against or harassed in violation of these policy and procedures may make a complaint orally or in writing.

If a Complainant decides to file a formal written unlawful discrimination or harassment complaint against the District, they must file the complaint on a form prescribed by the California Community Colleges Chancellor's Office. These approved forms are available from the Executive Director of Human Resources and at the California Community Colleges Chancellor's Office website.

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

- the Executive Director of Human Resources;
- Director of Student Services – Activities & Advocacy; or
- the California Community Colleges Chancellor's Office.

Employment-Related Complaints

Complainants filing employment-related complaints shall be notified that they may file employment discrimination complaints with the U.S. Equal Employment Opportunity Commission (EEOC) or the California Civil Rights Department (CCRD).

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

Any District employee who receives a harassment or discrimination complaint shall notify the Executive Director of Human Resources immediately.

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

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

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

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

Intake and Processing of the Complaint: Upon receiving notification of a harassment or discrimination complaint, the Executive Director of Human Resources or designee Director of Student Services – Activities & Advocacy or designee shall:

- Undertake efforts to informally resolve the charges, including but not limited to mediation, rearrangement of work/academic schedules; obtaining apologies; providing informal counseling, training, etc.
- Advise all Parties that 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.
- 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 Department. All Complainants should be advised that they have a right to file a complaint with local law enforcement, if the act complained of is also a criminal act. The District must investigate even if the Complainant files a complaint with local law enforcement. In addition, the District should ensure that Complainants are aware of any available resources, such as counseling, health, and mental health services. The Executive Director of Human Resources or designee Director of Student Services – Activities & Advocacy or designee shall also notify the California Community Colleges Chancellor's Office of the complaint.
- Take interim steps to protect a Complainant from coming into contact with an accused individual, especially if the Complainant is a victim of sexual violence. The Executive Director of Human Resources or designee Director of Student Services – Activities & Advocacy or designee should notify the Complainant of their options to avoid contact with the accused individual and allow students to change academic situations as appropriate. For instance, the District may prohibit the accused individual from having any contact with the Complainant pending the results of the investigation. When taking steps to separate the Complainant and accused individual, the District shall minimize the burden on the Complainant. For example, it is not appropriate to remove Complainants from classes or housing while allowing accused individuals to remain.

Investigation

The Executive Director of Human Resources or designee shall:

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

Investigation of the Complaint: The District shall promptly investigate every complaint and claim of harassment or discrimination. No claim of workplace or academic harassment or discrimination shall remain unexamined. This includes complaints involving activities that occur off campus and in connection with all the academic, educational, extracurricular, athletic, and other programs of the District, whether those programs take place in the District's facilities, on a District bus, or at a class or training program sponsored by the District at another location. The District shall promptly investigate complaints of harassment or discrimination that occur off campus if the alleged conduct creates a hostile environment on campus.

As set forth above, where the Parties opt for an informal resolution, the Executive Director 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 absolute confidentiality because release of some information on a "need-to-know-basis" is essential to a thorough investigation. When determining whether to maintain confidentiality, the District may weigh the request for confidentiality against the following factors: the seriousness of the alleged harassment; the Complainant's age; whether there have been other harassment complaints about the same individual; and the accused individual's rights to receive information about the allegations if the information is maintained by the District as an "education record" under the Family Educational Rights and Privacy Act (FERPA), 20 U.S. Code Section 1232g; 34 Code Federal Regulations Part 99.15. The District will inform the Complainant if it cannot maintain confidentiality.

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

Investigators will use the following steps: interviewing the Complainant(s); interviewing the accused individual(s); identifying and interviewing witnesses and evidence identified by each Party; identifying and interviewing any other witnesses, if needed; reminding all individuals interviewed of the District's non-retaliation policy; considering whether any involved person should be removed from the campus pending

completion of the investigation; reviewing personnel/academic files of all involved Parties; reach a conclusion as to the allegations and any appropriate disciplinary and remedial action; and see that all recommended action is carried out in a timely fashion. When the District evaluates the complaint, it shall do so using a preponderance of the evidence standard. Thus, after considering all the evidence it has gathered, the District will decide whether it is more likely than not that discrimination or harassment has occurred.

Timeline for Completion: The District will undertake its investigation promptly and swiftly as possible. To that end, the investigator shall complete the above steps, and prepare a written report within 90 days of the District receiving the complaint. The District will toll the timeline while the Parties are engaged in good faith efforts at informal resolution.

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

Written Report

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

- A description of the circumstances giving rise to the Formal Complaint;
- A description of the procedural steps taken during the investigation, including all individuals contacted and interviewed;
- A summary of the testimony provided by each witness with information relevant to the allegations the investigator interviewed;
- An explanation of why an identified potential witness was not interviewed;
- An analysis of relevant 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 allegation in the complaint;
- A table of contents if the report exceeds ten pages; and
- Any other information deemed appropriate by the District.

Confidentiality of the Process

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

Evidence of Past Sexual History

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

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

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

Administrative Determination

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

- The determination of the Superintendent/President or designee as to whether there is probable cause to believe discrimination occurred with respect to each allegation in the complaint;
- A description of actions taken, if any, to prevent similar problems from occurring in the future;
- The proposed resolution of the complaint; and
- The Complainant's right to appeal to the District governing board and the Chancellor California Community Colleges.
- In matters involving student sexual misconduct, the Respondent's right to appeal to the District's Board of Trustees any disciplinary sanction imposed upon the Respondent.

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

- The determination of the Superintendent/President or designee as to whether there is probable cause to believe discrimination occurred with respect to each allegation in the complaint;
- A description of actions taken, if any, to prevent similar problems from occurring in the future;
- The proposed resolution of the complaint; and
- The Complainant's right to appeal to the district governing board and to file a complaint with California Civil Rights Department or the U.S Equal Employment Opportunity Commission.

The District shall also provide the Respondent the following:

- The Superintendent/President or their designee's determination as to whether unlawful discrimination occurred with respect to each allegation in the Complaint based on the

preponderance of the evidence standard and the basis for that determination including factual findings;

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

The District will toll the timelines described above while the Parties are engaged in good faith efforts at informal resolution.

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 administrative leave is extended by agreement of the employee and District for a period not exceeding 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, if a student Respondent is subject to severe disciplinary sanctions, and the credibility of witnesses was central to the investigative findings, the District will provide an opportunity for the student Respondent to cross-examine witnesses indirectly at a live hearing, either in person or by videoconference, conducted by a neutral decision-maker other than the investigator.

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

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

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

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

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

Discipline and Corrective Action

If harassment, discrimination, or retaliation occurred in violation of the policy or procedure, the District shall take disciplinary action against the accused and any other remedial action it determines to be appropriate consistent with state and federal law. The action will be prompt, effective, and commensurate with the severity of the offense. Remedies for the Complainant might include, but are not limited to:

- providing an escort to ensure that the Complainant can move safely between classes and activities;
- ensuring that the Complainant and alleged perpetrator do not attend the same classes or work in the same work area;
- preventing offending third parties from entering campus;
- providing counseling services or a referral to counseling services;
- providing medical services or a referral to medical services;
- providing academic support services, such as tutoring;
- arranging for a student-Complainant to re-take a course or withdraw from a class without penalty, including ensuring that any changes do not adversely affect the Complainant's academic record; and
- reviewing any disciplinary actions taken against the Complainant to see if there is a causal connection between the harassment and the misconduct that may have resulted in the Complainant being disciplined.

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

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

The District shall also take reasonable steps to protect the Complainant from further harassment, or discrimination, and to protect the Complainant and witnesses from retaliation as a result of communicating the complaint or assisting in the investigation.

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

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

Appeals

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

If the Complainant is not satisfied with the results of the administrative determination, they may, within 15 days, submit a written appeal to the Board of Trustees. The Board shall review the original complaint, the investigative report, the administrative decision, and the appeal. The Board shall issue a final District decision in the matter within 45 days after receiving the appeal. A copy of the decision rendered by the Board shall be forwarded to the Complainant and to the California Community Colleges Chancellor's Office. The Complainant shall also be notified of their right to appeal this decision.

The Board's review on appeal is limited to the following issues:

- whether there was a procedural error in violation of this procedure;
- whether there was a defect in the investigation;
- whether new evidence unavailable during the investigation despite the Complainant's due diligence would substantially impact the outcome of the investigation;
- whether correct legal standards were applied; and
- whether the District's determination was an abuse of discretion.

If the Board does not act within 45 days, the administrative determination shall be deemed approved and shall become the final decision of the District in the matter.

In any case not involving workplace discrimination, harassment, or retaliation, the Complainant shall have the right to file a written appeal with the California Community Colleges Chancellor's Office within 30 days after the Board issued the final District decision or permitted the administrative decision to become final. Such appeals shall be processed pursuant to the provision of Title 5 Section 59350.

In any case involving employment discrimination, including workplace harassment, the Complainant may, at any time before or after the issuance of the final decision of the District, file a complaint with the California Civil Rights Department.

In any complaint dismissed pursuant to Title 5 Section 59332, a complainant may file a written appeal with the California Community Colleges Chancellor's Office within 30 days from the date of the notice of dismissal.

Extension of Time

Within 150 days of receiving a formal complaint that does not involve employment discrimination, the District shall forward to the California Community Colleges Chancellor's Office the original complaint, the investigative report, a copy of the written notice to the Complainant setting forth the results of the investigation, a copy of the final administrative decision rendered by the Board or indicating the date upon which the decision became final, and a copy of the notification to the Complainant of ~~his/her~~ their appeal rights. If, due to circumstances beyond its control, the District is unable to comply with the 150-day deadline for submission of materials, it may file a written request for an extension of time no later than ten days prior to the expiration of the deadline.

The extension of time provisions described above do not apply to investigations involving an academic employee placed on involuntary paid administrative leave.

File Retention

The District will retain on file for a period of at least three 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; and
- the District's final decision.

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

Dissemination of Policy and Procedures

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

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

Training

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

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

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

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

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

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

Education and Prevention for Students

In order to take proactive measures to prevent sexual harassment and violence toward students, the District will provide preventive education programs and make victim resources, including comprehensive victim services, available. The District will include information 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.

Office of Primary Responsibility: Human Resources, Student Learning and Success, Student Services – Activities and Advocacy

Date Approved: November 6, 2008

Date Reviewed/Revised: January 15, 2013, September 15, 2015; April 19, 2022; September 19, 2023;
May 21, 2024

Date Revised:

General Institution

This legally required procedure was revised to update references to AP 3434 Responding to Sex Discrimination under Title IX. Non-substantive revision. Mici 7-10-2024
To Sadika/Student Services 7-10-2024
Copy to Mia/General Counsel/IVP SLS 7-10-2024
Approved Nikki/Human Resources 8-8-2024

AP 3540 SEXUAL AND OTHER ASSAULTS ON CAMPUS AND IN CAMPUS PROGRAMS**References:**

Education Code Sections 67385, 67385.7, and 67386;
20 U.S. Code Section 1092 subdivision (f) (Jeanne Clery Act);
34 Code of Federal Regulations Section 668.46 subdivision (b) (11) (Institutional Security Policies and Crime Statistics)

Any sexual assault or physical abuse, including, but not limited to, rape, domestic violence, dating violence, sexual assault, or stalking as defined by California law, whether committed by an employee, student, or member of the public, occurring on District property in connection with all the academic, educational, extracurricular, athletic, and other programs of the District, whether those programs take place in the District facilities or at another location, or on an off-campus site or facility maintained by the District or on grounds or facilities maintained by a student organization, is a violation of Board policies and administrative procedures and is subject to all applicable punishment, including criminal procedures and employee or student discipline procedures. (Also see AP 3433 Prohibition of Sexual Harassment under Title IX, AP 3434 Responding to Harassment Based on Sex under Title IX, and AP 5520 Student Discipline and Due Process)

“Sexual assault,” “dating violence,” “domestic violence” and “stalking” are defined in Administrative Procedure 3434 – Responding to ~~Harassment Based on~~ Sex Discrimination under Title IX.

It is the responsibility of each person involved in sexual activity to ensure that he/she/they has the affirmative consent of the other or others to engage in the sexual activity. Lack of protest or resistance does not mean consent, nor does silence mean consent. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of consent. Consent must be given without coercion, provocation, force, threats or intimidation. Consent cannot be given when a person is incapacitated or when his or her understanding is affected by a mental or physical impairment.

“Affirmative consent” means affirmative, conscious, and voluntary agreement to engage in sexual activity. If affirmative consent is withdrawn, the sexual activity must immediately stop.

These written procedures and protocols are designed to ensure that victims of domestic violence, dating violence, sexual assault, or stalking receive treatment and information. (For physical assaults/violence, also see AP 3500 Campus Safety, AP 3510 Workplace Violence Plan, and AP 3515 Reporting of Crimes).

All students, faculty members, or staff members who allege they are the victims of domestic violence, dating violence, sexual assault, or stalking on District property shall be provided with information regarding options and assistance available to them. Information shall be available from the Executive Director of Human Resources or designee, who shall maintain the identity and other information about alleged sexual assault victims as confidential unless and until the Executive Director of Human Resources or designee is authorized to release such information. Situations that fall under the auspices of mandated reporting shall be addressed according to appropriate laws and regulations. In instances involving District employees, District Police shall work with Human Resources as appropriate.

The Executive Director of Human Resources or designee shall provide all alleged victims of domestic violence, dating violence, sexual assault, or stalking with the following:

- A copy of the Board Policy (BP) and Administrative Procedure (AP) regarding domestic violence, dating violence, sexual assault, or stalking.
- A list of personnel on campus who should be notified and procedures for such notification, if the alleged victim consents. (Executive Director of Human Resources or designee)
- Information about the importance of preserving evidence and the identification and location of witnesses.
- Available services, and the persons on campus available to provide those services if requested. Services and those responsible for providing or arranging them include:
 - transportation to a hospital if necessary via emergency services - 911 or college police;
 - counseling provided by the College's mental health counselors in the Counseling department;
 - referral to *Community Violence Solutions* (for sexual assault) and *Center for Domestic Peace* (domestic violence issues) for off campus resources;
 - a list of other appropriate campus and off-campus resources and referrals into the community (available via publication and website).
- The victim's option to:
 - notify proper law enforcement authorities, including on-campus and local police;
 - be assisted by campus authorities in notifying law enforcement authorities if the victim so chooses; and
 - decline to notify such authorities.
- The rights of the victims and the institution's responsibilities regarding orders of protection, no contact orders, or similar lawful orders issued by a court.
- Information about how the District will protect the confidentiality of victims.
- Written notification of victims about options for, and available assistance in, changing academic, living, transportation, and working situations. If requested and if such accommodations are reasonably available, regardless of whether the victim chooses to report the crime to campus police or local law enforcement.
- A description of each of the following options:
 - counselors and support services for victims;
 - criminal prosecution;
 - civil prosecution (i.e., lawsuit);
 - District disciplinary procedures, both student and employee;
 - modification of class schedules;
 - tutoring, if necessary-;
 - alternative dispute resolution or other accountability processes;
 - alternative housing assignments; and

- academic assistance alternatives.

The Executive Director of Human Resources or designee should be available to provide assistance to the District's law enforcement unit employees regarding how to respond appropriately to reports of sexual violence.

The District will investigate all complaints alleging sexual assault under the procedures for sexual harassment investigations described in AP 3434 Responding to ~~Harassment Based on Sex~~ Discrimination under Title IX, regardless of whether a complaint is filed with local law enforcement.

All alleged victims of domestic violence, dating violence, sexual assault, or stalking on District property shall be kept informed, through the Executive Director of Human Resources or designee of any ongoing investigation. Information shall include the status of any student or employee disciplinary proceedings or appeal; alleged victims of domestic violence, dating violence, sexual assault, or stalking are required to maintain any such information in confidence, unless the alleged assailant has waived rights to confidentiality consistent with state and federal law.

A Complainant or witness who participates in an investigation of sexual assault, domestic violence, dating violence, or stalking will not be subject to disciplinary sanctions for a violation of the District's student conduct policy at or near the time of the incident, unless the District determines that the violation was egregious, including but not limited to, an action that places the health or safety of any other person at risk or involves plagiarism, cheating, or academic honesty.

In the evaluation of complaints in any disciplinary process, it shall not be a valid excuse to alleged lack of affirmative consent that the accused believed that the Complainant consented to the sexual activity under either of the following circumstances.

- The accused's belief in affirmative consent arose from the intoxication or recklessness of the accused.
- The accused did not take reasonable steps, in the circumstances known to the accused at the time, to ascertain whether the Complainant affirmatively consented

In the evaluation of complaints in the disciplinary process, it shall not be a valid excuse that the accused believed that the Complainant affirmatively consented to the sexual activity if the accused knew or reasonably should have known that the Complainant was unable to consent to the sexual activity under any of the following circumstances:

- The Complainant was asleep or unconscious.
- The Complainant was incapacitated due to the influence of drugs, alcohol, or medication, so that the Complainant could not understand the fact, nature, or extent of the sexual activity.
- The Complainant was unable to communicate due to a mental or physical condition.

The District shall maintain the identity of any alleged victim witness, or third-party reporter of domestic violence, dating violence, sexual assault, or stalking on District property, as defined above, in confidence consistent with state and federal law, unless the alleged victim witness, or third-party reporter specifically waives that right to confidentiality. All inquiries from reporters or other media representatives about alleged domestic violence, dating violence, sexual assaults, or stalking on District property shall be referred to the Superintendent/President's office, which shall work with the Executive Director of Human

Resources or designee and District Police to assure that all confidentiality rights are maintained consistent with state and federal law.

Additionally, the Annual Security Report will include a statement regarding the District's programs to prevent sexual assault, domestic violence, dating violence, and stalking and procedures that should be followed after an incident of domestic violence, dating violence, sexual assault, or stalking has been reported, including a statement of the standard of evidence that will be used during any District proceeding arising from such a report. The statement must include the following:

- A description of educational programs to promote the awareness of rape, acquaintance rape, other forcible and non-forcible sex offenses, domestic violence, dating violence, or stalking;
- Procedures to follow if a domestic violence, dating violence, sex offense, or stalking occurs, including who should be contacted, the importance of preserving evidence to prove a criminal offense, and to whom the alleged offense should be reported;
- Information on a student's right to notify appropriate law enforcement authorities, including on-campus and local police, and a statement that campus personnel will assist the student in notifying these authorities, if the student so requests, and the right to decline to notify these authorities;
- Information about how the District will protect the confidentiality of victims;
- Information for students about existing on- and off-campus counseling, mental health, victim advocacy, legal assistance or other student services for victims;
- Written notification to victims about options for, and available assistance in changing academic, living, transportation, and working situations, if requested, and if such accommodations are reasonably available, regardless of whether the victim chooses to report the crime to campus policy or local law enforcement.
- Procedures for campus disciplinary action in cases of an alleged domestic violence, dating violence, sexual assault, or stalking including a clear statement that:
 - Such proceedings shall provide a prompt, fair, and impartial resolution;
 - Such proceedings shall be conducted by officials who receive annual training on the issues related to domestic violence, dating violence, sexual assault, and stalking and how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability.
 - The accuser and the accused are entitled to the same opportunities to have others present during a disciplinary proceeding; and
 - Both the accuser and the accused must be informed of the outcome of any institutional disciplinary proceeding resulting from an alleged domestic violence, dating violence, sexual assault, or stalking, the procedures for the accused and victim to appeal the results of the disciplinary proceeding, of any changes to the results that occur prior to the time that such results become final, and when such results become final. Compliance with this paragraph does not violate the Family Educational Rights and Privacy Act. For the purposes of this paragraph, the outcome of a disciplinary proceeding means the final determination with respect to the domestic violence, dating violence, sex offense, sexual assault, or stalking and any sanction that is imposed against the accused.
- A description of the sanctions the campus may impose following a final determination by a campus disciplinary proceeding regarding rape, acquaintance rape, other forcible or non-forcible sex offenses, domestic violence, dating violence, or stalking.

Sexual Assault and Domestic Violence Counselors

Sexual assault and domestic violence counselors shall be independent from the Title IX office, and shall, at a minimum, meet the qualifications defined in Sections 1035.2 and 1037.1 of the Evidence Code, respectively.

Services provided by sexual assault and domestic violence counselors, including, but not limited to, securing alternative housing assignments and academic assistance alternatives, shall not be contingent on a victim's decision to report to the Title IX office or law enforcement.

A sexual assault or domestic violence counselor shall obtain specific permission from the victim before disclosing the identity of the victim, or any information that could reasonably be expected to reveal the identity of the victim, to the university or any other authority, including law enforcement, unless otherwise required to do so by applicable state or federal law.

Education and Prevention Information

The Director of Student Services – Student Activities and Advocacy or designee in collaboration with the Dean of Enrollment Services or designee shall:

- Provide as part of the Kentfield and Indian Valley campuses' established on-campus orientation program, education, prevention, and outreach information about domestic violence, dating violence, sexual assault and stalking. The information shall be developed in collaboration with campus-based and community-based victim advocacy organizations, and shall include the District's sexual assault policy and prevention strategies including education and information programs on victim prevention, primary prevention, bystander intervention, risk reduction and awareness raising campaigns.

The outreach programming included as part of an incoming student's orientation must include, at a minimum, all of the following:

- The warning signs of intimate partner and dating violence.
 - Campus policies and resources relating to intimate partner and dating violence.
 - Off-campus resources and centers relating to intimate partner and dating violence.
 - A focus on prevention and bystander intervention training as it relates to intimate partner and dating violence.
- Post sexual violence prevention and education information on the campus internet website and student orientation (Education Code Section 67385.7) regarding domestic violence, dating violence, sexual assault and stalking.

Offices designated for providing information: Human Resources (overall charge and staff education), Administrative Services (Campus Police – Clery Act), Student Learning and Success (Student Services – Student Activities and Advocacy).

Also see BP and AP 3430 Prohibition of Harassment, AP 3500 Campus Safety, AP 3510 Workplace Violence Plan, and AP 3515 Reporting of Crimes

Offices of Primary Responsibility: Administrative Services, Human Resources, and Student Learning and Success

Date Approved: April 19, 2011

Date Reviewed/Revised: March 3, 2012; September 15, 2015; May 11, 2021; September 19, 2023

Date Revised:

Academic Affairs

CCLC 43 updated this procedure to add a legal citation and align with revised Title 5 regulations. There is also some language that looks like it should be removed that was left in by Academic Senate accidentally.

This is a 10+1. Mici 2-23-2024

Approved. Cari/Mia 4-22-2024

Approved. Academic Senate 8-26-2024

AP 4105 DISTANCE AND CORRESPONDENCE EDUCATION**References:**

Education Code Sections 66700 and 70901 et seq;

Title 5 Sections [55002.5](#), 55200 et seq. [and 55260 et seq.](#);

[Title 5 Sections 55260 et seq.](#);

34 CFR Section 602.17 (U.S. Department of Education regulations on the Integrity of Federal Student Financial Aid Programs under Title IV of the Higher Education Act of 1965, as amended);
ACCJC Accreditation Standard II.A.1.

Per Title 5 Section 55200, distance education that uses one or more of the technologies listed below to deliver instruction to students who are separated from the instructor(s) and to support regular and substantive interaction between the students and instructor(s) either synchronously or asynchronously. Technologies that may be used to offer distance education include: (1) the internet, (2) one-way and two-way transmissions through open broadcast, closed circuit, cable, microwave, broadband lines, fiber optics, satellite, or wireless communications devices, (3) audio conference, (4) other media used in a course in conjunction with any of the technologies listed in this definition. Distance education does not include correspondence courses.

All distance education is subject to the general requirements under Title 5 as well as the specific requirements of articles 55200 and 55204. In addition, instruction provided as distance education is subject to the requirements that may be imposed by the American with Disabilities Act (42 U.S.C. Section 12100 et seq.) and section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. Section 794d).

The U.S. Department of Education defines distance education as education that uses one or more technologies [listed in paragraph (1) through (2)(iv) of the definition] to deliver instruction to students who are separated from the instructor and to support regular and substantive interaction between the students and the instructor, either synchronously or asynchronously. (Title 34 Subtitle B, Chapter IV Part 600 Subpart A section 600.2).

College of Marin offers Distance Education courses via two delivery modes: online asynchronous and hybrid:

- 1) **Online Asynchronous:** a course in which 100% of instruction takes place online. No mandatory in-person or online synchronous meetings occur.
- 2) **Hybrid:** a course in which instruction occurs both online and in-person with a minimum of one mandatory on-campus meeting during the semester. The required on-campus and/or synchronous online meetings dates and times must be published in the College of Marin Class Schedule. A hybrid class cannot have some students attending in-person and others in Zoom

simultaneously.

Course Approval Process

Step 1: Department Approval

- Online course proposals must be discussed and vetted by the academic department to determine that the course objectives and learning outcomes can be met in an online modality before going to curriculum. Some additional considerations:
- 50% threshold for accreditation ([for example](#), does the program then require a substantive change approval?);
- Articulation ([for example](#), is the course still transferable if offered in an online modality?); and/or
- Balance of in-person and online/hybrid offerings in the schedule.

Step 2: Course Outline of Record or DE Addendum

The course outline of record or an addendum to the official course outline of record for any new or existing course provided through distance or correspondence education must address the following:

- How course outcomes will be achieved in a distance or correspondence education mode;
- For distance education, how the portion of instruction delivered via distance education meets the requirement for regular and substantive interaction;
- For correspondence education, how the portion of instruction delivered via correspondence education documents and facilitates learning progression through a cycle of assignment submissions and feedback; and,
- The course design and all course materials must be accessible to every student, including students with disabilities.

The review and approval of new and existing distance education courses shall follow the curriculum approval procedures outlined in AP 4020 Program and Curriculum Development. Distance education courses shall be approved under the same conditions and criteria as all other courses.

Each new or existing distance education course shall be reviewed and approved separately by the District Education Committee (DEC). Separate course outlines are required for each online asynchronous or hybrid version of a course. Each course outline must include the Distance Education addendum of the Course Outline of Record (COR) template.

When approving distance education courses, the Distance Education Committee (DEC) will certify the following:

- **Course Quality Standards:** The same standards of course quality are applied to the distance education courses as are applied to in-person classes.
- **Course Quality Determinations:** Determinations and judgments about the quality of the distance education course were made with the full involvement of the Distance Education Committee and Curriculum Committee's approval procedures.

Regular interaction: Interaction between a student and instructor(s) is ensured by, prior to the student's completion of a course or competency: (1) providing the opportunity for substantive interactions with the

student on a predictable and scheduled basis commensurate with the length of time and the amount of content in the course or competency; and (2) monitoring the student's academic engagement and success and ensuring that an instructor is responsible for promptly and proactively engaging in substantive interaction with the student when needed on the basis of such monitoring, or upon request by the student.

Substantive interaction: Engaging students in teaching, learning, and assessment, consistent with the content under discussion, and also includes at least two of the following: (1) providing direct instruction, (2) assessing or providing feedback on a student's coursework, (3) providing information or responding to questions about the content of a course or competency, (4) facilitating a group discussion regarding the content of a course or competency, or (5) other instructional activities approved by the district's or program's accrediting agency.

In addition to addressing how course learning outcomes will be achieved in a distance education mode, the addendum shall, at a minimum, specify how the portion of instruction delivered via distance education meets:

- 1) Regular and substantive interaction (RSI) between instructors and students and among students as referenced in Title 5, section 55204(a), and
- 2) Requirements of the Americans with Disabilities Act (42 U.S.C. § 12100 et seq.) and section 508 of the Rehabilitation Act of 1973, as amended, (29 U.S.C. § 749d)

The addendum shall be separately approved according to the district's adopted curriculum approval procedures. (5 CCR Section 55206).

Duration of Approval: All distance education courses approved under this procedure will continue to be in effect unless there are substantive changes to the course outline.

Step 3: Course Content

Course content must be fully developed and reviewed prior to scheduling. The deadlines are as follows: for spring courses, instructors must successfully complete the PO CR process no later than September 1st. For summer and fall courses, instructors must successfully complete the PO CR process no later than December 31st. The course will be submitted to the Distance Education Committee (DEC) for formal review using the Peer Online Course Review (PO CR) process applying the CVC-OEI Course Design Rubric (Refer to Faculty Certification Process).

Faculty Certification Process

Once the department has determined that a faculty member may be assigned to teach a distance education course, the faculty member must complete the following steps:

Faculty Training:

Per Title 5 Section 55208 *Instructors of distance education shall be prepared to teach in a distance education delivery method consistent with local district education policies and negotiated agreements.*

Faculty Selection and Workload

Instructors of course sections delivered through distance or correspondence education are individuals responsible for delivering course content who meet the qualifications for instruction established by the District's accrediting agency. Instructors will be selected using the District or college's same procedures for

determining other instructional assignments.

Before a distance education course is assigned, faculty must complete training in online standards and best practices and the OEI rubric either through course work provided by the CCC @One Online Network of Educators, COM's POCR professional development course, or equivalent professional development provided at a California Community College.

The cost of the registration/training will be paid from the Distance Education budget and all requests for training must be routed through the Distance Education Coordinator prior to registration.

Whether teaching hybrid and/or online courses, faculty must demonstrate proficiency in the technical and pedagogical aspects of such courses using the approved District Learning Management System (LMS) before being assigned to teach such a course. Prior to the launch of the course, faculty are required to meet at intervals with the Distance Education Coordinator and Instructional Technologist to review their curricular plan, receive appropriate training on course design, and review their final course product.

The instructor must create a fully-developed (semester-length) course and then proceed through the Peer Online Course Review (POCR) process. Refer to Step 3 of Course Approval Process above.

Waivers and Evidence of Equivalency

Faculty who have completed equivalent professional learning in online pedagogy and teaching best practices at an accredited institution within the past three years may be exempt from the required professional learning. Evidence of prior professional learning must be submitted to the Distance Education Coordinator and Instructional Designer.

All courses are required to go through the POCR process regardless of the faculty member's professional learning equivalency.

Instructor Contact

Each section of the course that is delivered through distance education will include regular and substantive interaction (RSI) between instructor and students, as well as among students, as described in the course outline of record, either synchronously or asynchronously, through group or individual meetings, orientation and review sessions, supplemental seminar or study sessions, field trips, library workshops, telephone contact, voice mail, e-mail, or other activities.

Title 5 sections 55204 and 53200 require "regular and substantive interaction" in all distance education courses. Each course or portion of a course delivered through distance education ensures regular and substantive interaction between the instructor(s) and students, (and among students where applicable) either synchronously or asynchronously as defined in §55204 (a) through (e).

For purposes of this definition, substantive interaction is engaging students in teaching, learning, and assessment, consistent with the content under discussion, and also includes at least two of the following

- a) Providing direct instruction;
- b) Assessing or providing feedback on a student's coursework;
- c) Providing information or responding to questions about the content of a course or competency;
- d) Facilitating a group discussion regarding the content of a course or competency; or
- e) Other instructional activities approved by the institution's or program's accrediting agency.

An institution ensures regular interaction between a student and an instructor or instructors by, prior to the student's completion of a course or competency—

- a) Providing the opportunity for substantive interactions with the student on a predictable and regular basis commensurate with the length of time and the amount of content in the course or competency; and
- b) Monitoring the student's academic engagement and success and ensuring that an instructor is responsible for promptly and proactively engaging in substantive interaction with the student when needed on the basis of such monitoring, or upon request by the student.

Accessibility Compliance

All distance education is subject to the requirements of Title 5 as well as the requirements of the Americans with Disabilities Act (42 U.S. Code Sections 12100 et seq.) and Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S. Code Section 794d). Distance Education courses will be reviewed by Student Accessibility Services (SAS) to determine ADA compliance. The College's Assistive Technology Specialist and Instructional Designer will assist faculty in meeting ADA compliance obligations when needed. Faculty must engage in relevant training from the College to ensure that they understand accessibility as it relates to instruction and curriculum. Likewise, any material or technology in support of any instructional activity must be vetted for accessibility compliance by a designated campus authority.

The term "accessible" means that a person with a disability is given the opportunity to acquire the same information, engage in the same interactions, and enjoy the same services as a person without a disability in an equally effective and integrated manner, with equivalent ease of use (Office of Civil Rights (OCR), 2011).

Distance education courses must closely mirror current compliance requirements or as ADA has been interpreted by ongoing litigation and/or OCR Letters-of-Instruction. That is, distance education courses must be developed with an interface, design, and content that facilitates equitable access to all material or experiences either through industry standard assistive computer technology or any other accommodation. Additionally, instructional materials should closely align with emerging Universal Design for Learning best practices.

All course content delivered via distance education must be accessible to all persons including those with disabilities.

All activities and instructional media shall be accessible, including:

- Accurately captioned videos
- Transcribed audio files
- All objects (including images, formulas, tables and charts) have meaningful alternative text
- Readable course materials and html pages using effective font, color contrast, and spacing
- Meaningful hyperlinked text
- Documents that are accessible and reflect best practice standards (e.g. including the use of headers, alt text, a readable font, document tags, etc.)
- Provision of an ADA statement and contact information for Student Accessibility Services in the course syllabus.

Accessibility also applies to websites, software, and other required course materials not contained within the District Learning Management System (LMS). Educational technology applications must be vetted for VPAT and FERPA compliance by IT and DEC using the EEAAP form prior to adoption.

FERPA Compliance and LMS Course Merging

Faculty may combine their courses in the District Learning Management System (LMS) to save time distributing the same course content to students across multiple course sections. However, due to the Family Educational Rights and Privacy Act (FERPA) regulations, students can only have access to other students' information in the course in which they are enrolled. This means students may not interact in the LMS with students from another course section.

To comply with FERPA when distributing course content in merged courses, Faculty must restrict students' ability to view and interact with other students in another course section. Recommendations for meeting FERPA guidelines in the LMS and a Merged Course Request Form are available on the Online Learning website.

Enrollment, Attendance, and Participation in Distance Learning Courses

Students will register and enroll in distance learning courses in the same manner as traditional courses. All distance education courses follow College of Marin's attendance and drop policies (AP 5070 and AP 5075). Pursuant to Title 5 Section 58004, instructors shall clear their rosters of inactive students not later than the end of the last business day before the census day for all students. Students who are dropped by instructors after 30% of the term will receive a "W."

The U.S. Department of Education views attendance in an online class as active engagement, such as writing in discussion forums, submitting assignments, taking quizzes and/or exams, or other interactive class activities. Due to the potential for financial aid fraud in online programs, the U.S Department of Education has determined that there should be "regular and substantive interaction between students and faculty" in online courses. Hence, the "Last Day of Attendance" counted in the online classroom is the last day of class participation by the student.

Based on the aforementioned guidelines, the instructor should determine the last day of participation for students via the following methods:

- 1) Prior to the first census date, the instructor will initiate activities that require student participation.
- 2) The instructor will include various robust assessments and assignments on a frequent basis throughout the semester.

Participation and drop policies must be clarified in the online syllabus and align with the College's policies.

Scheduling Distance Education Courses

Area deans (in collaboration with department chairs) determine and approve faculty assignments for all courses, including distance education sections. Faculty will be assigned to teach distance education courses after completing the aforementioned certification process and meeting state and federal requirements.

Faculty Office Hours

For office hour obligations, faculty must refer to the UPM contract.

Student Authentication

Consistent with federal regulations pertaining to federal financial aid eligibility, the District must authenticate or verify that the student who registers in a distance education or correspondence education course is the same student who participates in and completes the course or program and receives the academic credit.

The District will provide to each student at the time of registration, a statement of the process in place to protect student privacy and estimated additional student charges associated with verification of student identity, if any.

The Chief Instructional Officer shall utilize one or more of these methods to authenticate or verify the student's identity:

- Secure credentialing/login and password;
- Proctored examination; or
- new or other technologies and practices that are effective in verifying student identification

The District utilizes a Learning Management System (LMS) whereby students must authenticate their identity. In order to access the LMS, students must log into the MyCOM Portal with their College of Marin- issued student username and password.

The Chief Instructional Officer shall provide a statement of the process in place to protect student privacy and estimated additional student charges associated with verification of student identity, if any, to each student at the time of registration.

Test Proctoring

Some distance education courses may require that exams be taken in a proctored setting or through an online proctoring service (e.g., Proctorio). Faculty will clearly communicate in their syllabus if there are any proctoring requirements for the course. Prior to using online proctoring software, faculty are expected to engage in professional learning on best practices.

Distance Education Support Services

The District provides online assistance in the following areas:

- Learning Management System (LMS) technical support through an on-line help center
- Online writing assistance through the Online Writing Center (OWC)
- Research assistance through the Library's "Ask a Librarian" service
- Tutoring appointments through the Teaching and Learning Center
- Counseling services through "Ask a Counselor"

The Assessment and Testing Center provides proctored exams with an instructor's approval. Specific instructions about taking an exam in the Assessment and Testing Center can be found on the Assessment and Testing Center's Webpage.

Office of Primary Responsibility: Student Learning and Success

Date Approved: June 28, 2011

Revised: June 19, 2012; May 1, 2014; September 20, 2016; March 13, 2018; May 11, 2021; May 17, 2022; September 19, 2023

Reviewed/Revised:

Student Services

CCLC 43 updated this procedure to provide a timeline for the district to respond to a request for student records pursuant to the Education Code. This is a 10+1. Mici 2-23-2024

Approved. Jon H./Enrollment 4-17-2024

Approved. Academic Senate 8-26-2024

AP 5040 STUDENT RECORDS, DIRECTORY INFORMATION AND PRIVACY**References:**

Education Code Sections 66093.3, 66271.4, and 76200 et seq.;
Title 5 Section 54600 et seq. and 59410;
Civil Code Sections 1788.90 et seq. and 1798.85;
10 U.S. Code Section 503;
20 U.S. Code Section 1232g subdivision (j) (U.S. Patriot Act);
ACCJC Accreditation Standard II.C.8

A cumulative record of enrollment, scholarship, and educational progress shall be kept for each student.

Collection and Retention of Student Information

The District shall treat all students equitably in the receipt of all school services, including, but not limited to, the gathering of student and family information for the institution's benefit programs.

The Dean of Enrollment Services shall maintain in writing, the District policies and procedures for gathering and handling sensitive student information, and appropriate personnel shall receive training regarding those policies and procedures.

The District will provide students and families with annual notice, at the beginning of each school year, of institutional policies for student privacy and the abilities of parents or eligible students to inspect student information.

The District will provide students an opportunity to opt out of disclosure of directory information. Notices must describe the following:

- The kind of information that the school has identified as directory information;
- The eligible student's ability to refuse to let the school designate the information as directory information, which could be disclosed to outside entities;
- The period of time in which the eligible student has to notify the school in writing that he or she does not want the information designated as directory information; and
- That opting out by the noted deadline is the students' only way to prevent the release of directory information.

Any sensitive information, such as a student's, parent's, or guardian's SSN, any AB 540 determinations, or citizenship status information collected by the District or disclosed by the student, should be maintained only for as long as necessary.

If the District possesses information that could indicate immigration status or citizenship status, District shall not consider the acquired information in admissions decisions or access to educational courses or degree programs.

Students may elect not to provide immigration or citizenship status information to the institution, and this election shall not impede admissions or enrollment in educational programs.

The District shall not create a list of student names linked with immigration status.

The District police department shall not inquire into an individual's immigration status for immigration enforcement purposes.

The District police department shall not aid any effort to create a registry containing individuals' country of birth or based on any other protected characteristics of victims, witnesses, or suspects of crimes unless required by law for specified purposes.

Release of Student Records

No instructor, official, employee, or Board member shall authorize access to student records to any person except under the following circumstances:

- Student records shall be released pursuant to a student's written consent by completing and submitting an Authorization for Release of Information Form to the Office of Enrollment Services.
- Directory information may be released in accordance with the definitions in *BP 5040 Student Records, Directory Information and Privacy*.
- Currently enrolled students may request that directory information be permanently kept confidential by filing a Request to Withhold Directory Information Form with the Office of Enrollment Services.
- Student records shall be released pursuant to a judicial order or a lawfully issued subpoena. Upon receipt of a judicial order or lawfully issued subpoena the Office of Enrollment Services will notify the student of the request. If there is no written objection from the student within two weeks of notification, the requested records will be released. (34 Code of Federal Regulations, Part 99.31)
- Student records shall be released pursuant to a federal judicial order that has been issued regarding an investigation or prosecution of an offense concerning an investigation or prosecution of terrorism.
- Student records may be released to officials and employees of the District only when they have a legitimate educational interest to inspect the record. Officials and employees of the District having a legitimate educational interest to inspect the records of a student must receive authorization from the Dean of Enrollment Services.
- Student records may be released to authorized representatives of the Comptroller General of the United States, the Secretary of Education, an administrative head of an education agency, state education officials, or their respective designees or the United States Office of Civil Rights, where that information is necessary to audit or evaluate a state or federally supported educational program or pursuant to state or federal law. Exceptions are that when the collection of personally identifiable information is specifically authorized by federal law, any data collected by those officials shall be protected in a manner that will not permit the personal identification of students or their parents by other than those officials, and any personally identifiable data shall be destroyed when no longer needed for that audit, evaluation, and enforcement of federal legal

requirements. A request to release student records to the agencies listed above must be made in writing to the Dean of Enrollment Services.

- Student records may be released to officials of other public or private schools or school systems, including local, county, or state correctional facilities where education programs are provided, where the student seeks or intends to enroll or is directed to enroll. The release is subject to the conditions in Education Code Section 76225. A request to release student records to the agencies listed above must be made in writing to the Dean of Enrollment Services.
- Student records may be released to agencies or organizations in connection with a student's application for, or receipt of, financial aid, provided that information permitting the personal identification of those students may be disclosed only as may be necessary for those purposes as to financial aid, to determine the amount of the financial aid, or conditions that will be imposed regarding financial aid, or to enforce the terms or conditions of financial aid. A request to release financial aid records to agencies and organizations must be made in writing to the Dean of Enrollment Services.
- Student records may be released to organizations conducting studies for, or on behalf of, accrediting organizations, educational agencies, or institutions for the purpose of developing, validating, or administering predictive tests, administering financial aid programs, and improving instruction, if those studies are conducted in such a manner as will not permit the personal identification of students or their parents by persons other than representatives of those organizations and the information will be destroyed when no longer needed for the purpose for which it is conducted. Requests of student records for the purposes as described above must be made in writing to the Dean of Enrollment Services and/or the Director of Planning, Research and Institutional Effectiveness.
- Student records may be released to appropriate persons in connection with an emergency if the knowledge of that information is necessary to protect the health or safety of a student or other persons, subject to applicable federal or state law. Student records may be released for the purposes as described above by making a verbal or written request to the Dean of Enrollment Services, Campus Police or other responsible District administrator.
- The following information shall be released to the federal military for the purposes of federal military recruitment: student names, addresses, telephone listings, e-mail addresses, dates and places of birth, levels of education, degrees received, prior military experience, or the most recent previous educational institutions enrolled in by the students. The District will not release student recruiting information to military recruiters for those students who request that directory information not be released.

Students may request to inspect and review his/her/their student records. The District will grant a request to inspect and review student records during regular school hours no later than 15 working days following the date of the request.

Access to Student Records for Immigration Enforcement Purposes

The District must obtain a student's written consent before disclosing educational records, unless the information is relevant for a legitimate educational interest or includes directory information only. Neither exception permits disclosing information for immigration enforcement purposes; no student information shall be disclosed for immigration enforcement purposes without a court order or judicial warrant. Without a court order or a judicial warrant, written consent must be signed and dated by the student, or (if the student is a minor) by the student's parent or guardian, before disclosure of the information, and must specify the records that may be disclosed, the purpose of the disclosure, and the party or class of parties to whom the disclosure may be made.

If desired by the student, District must provide a copy of the records to be released. The party to whom the information is disclosed may not redisclose the information to any other party without the prior consent of the student or subsequent court order, or as required or permitted by law.

District personnel shall develop a written policy for interactions with immigration authorities seeking to review student records. At minimum, such policies shall include the following information:

- Contact information for the correct person to review and respond to a request for student records.
- Access to sample warrant and subpoena documents that could be used for access onto campus property, or to seize or arrest students or other individuals on campus.
- District personnel shall provide a set of responses for personnel to use in response to officers seeking access to records for immigration enforcement purposes.

In addition to notifying the District's General Counsel and Dean of Enrollment Services, personnel shall take the following action steps in response to an officer other than campus police requesting access to student records:

1. Ask for the officer's name, identification number, and agency affiliation;
2. Record or copy this information;
3. Ask for a copy of any warrants;
4. Inform the officer that you are not obstructing his or her efforts but that you need to contact a campus administrator or campus counsel for assistance.

Campus police shall not provide personal information about an individual for immigration enforcement purposes, unless that information is publicly available, or required by a court order or judicial warrant. "Personal information" is defined as any information that identifies or describes an individual, and includes but is not limited to, a student's physical description, home or work address, telephone number, education, financial matters, medical or employment history, and statements made by, or attributed to, the individual. This restriction does not apply to information regarding the immigration or citizenship status of an individual.

Unless District is served with a judicial subpoena or court order that by its terms prohibits disclosure to the student, the student must be notified of any judicial order or subpoena before the institution complies with the order in accordance with the Family Educational Rights and Privacy Act (FERPA).

Responding to Inquiries of Immigration Status, Citizenship Status, and National Origin Information

Unless required by federal or state law, District shall not inquire specifically about a student's citizenship or immigration status or the citizenship or immigration status of a student's parents or guardians; nor shall personnel seek or require, to the exclusion of other permissible documentation or information, documentation or information that may indicate a student's immigration status, such as a green card, voter registration, a passport, or citizenship papers.

Where any law contemplates submission of immigration status or citizenship status information to satisfy the requirements of a special program, District shall not use that documentation or information for decisions related to admissions or enrollment in courses or degree programs.

District is not permitted to use immigration status, citizenship status, or national origin information in personal statements outside the application process, other than for legitimate educational interests,

including the provision of a service or benefit relating to the student, such as health care, counseling, job placement or financial aid.

If District learns of a student's immigration status through its application process (including the students' personal statement or answers to personal insight questions), District shall create policies and procedures to protect such personal identifiable information and retain the information only to the extent it is necessary or required by law. The District shall avoid the disclosure of information that might indicate a student or family's citizenship or immigration status if the disclosure is not authorized by FERPA or state law.

Charge for Transcripts or Verifications of Student Records

A student/former student shall be entitled to two free copies of the transcript of his/her/their record or to two free verifications of various student records. Additional copies shall be made available to the student, or to an addressee designated by him/her/them, at the rate published in the most current Catalog and Schedule of Classes. The District will not refuse to provide a transcript for a current or former student on the grounds that the student owes a debt; condition the provision of a transcript on the payment of a debt, other than a fee charged to provide the transcript; charge a higher fee for obtaining a transcript, or provide less favorable treatment of a transcript request because a student owes a debt; or use transcript issuance as a tool for debt collection.

Electronic Transcripts

The District may elect to implement a process for the receipt and transmission of electronic student transcripts contingent upon receipt of sufficient funding.

Use of Social Security Numbers

The District shall not do any of the following:

- Publicly post or publicly display an individual's social security number;
- Print an individual's social security number on a card required to access products or services;
- Require an individual to transmit his/her/their social security number over the internet using a connection that is not secured or encrypted;
- Require an individual to use his/her/their social security number to access an Internet Web site without also requiring a password or unique personal identification number or other authentication device; or
- Print, in whole or in part, an individual's social security number that is visible on any materials that are mailed to the individual, except those materials used for:
 - Application or enrollment purposes;
 - To establish, amend, or terminate an account, contract, or policy; or
 - To confirm the accuracy of the social security number.

If the District has, prior to January 1, 2004, used an individual's social security number in a manner inconsistent with the above restrictions, it may continue using that individual's social security number in that same manner only if:

- The use of the social security number is continuous;
- The individual is provided an annual disclosure that informs the individual that he/she/they has the right to stop the use of his/her/their social security number in a manner otherwise prohibited;
- The District agrees to stop the use of an individual's social security number in a manner otherwise prohibited upon a written request by that individual;

- No fee shall be charged for implementing this request; and the District shall not deny services to an individual for making such a request.

Name, Gender Identity, and Gender Changes to Student Records

Current students can declare an affirmed name, gender, or both name and gender identification to be used in their records where legal names are not required by law. Upon the request of a current student, the District shall update any records for the student to include the affirmed name, gender, or both name and gender identification. The records that shall be updated include but are not limited to District-issued email addresses, student identification cards, class rosters, transcripts, diplomas, certificates of completion of courses, or similar records.

If the District receives government-issued documentation, as described below, from a former student demonstrating that the former student's legal name or gender has been changed, the District shall update the former student's records to include the updated legal name or gender. If requested by the former student, the District shall reissue any documents conferred upon the former student with the former student's updated legal name or gender. Documents that shall be reissued by the District upon request include, but are not necessarily limited to, a transcript or a diploma conferred by the institution.

The District shall not charge a higher fee for correcting, updating, or reissuing a document or record based on an affirmed name, gender identification, or legal name or gender change than the fee it charges for correcting, updating, or reissuing that document or record generally.

The documentation of a former student sufficient to demonstrate a legal name or gender change includes, but is not necessarily limited to, any of the following:

- State-issued driver's license or identification card;
- Birth certificate;
- Passport;
- Social security card;
- Court order indicating a name change or a gender change, or both.

The District is not required to modify records that the former student has not requested for modification or reissuance.

The District cannot require a current student to provide legal documentation to demonstrate a legal name or gender change in order to have the student's affirmed name listed on the student's records.

Also see BP/AP 3300 Public Records; BP/AP 3415 District Response to Immigration Enforcement Action; BP/AP 3501 Campus Security and Access; and BP/AP 5015 Residence Determination; BP/AP 5040 Student Records, Directory Information and Privacy.

Office of Primary Responsibility: Enrollment Services

Date Approved: November 18, 2011 (*Replaced Procedure 4.0021 DP.1 and portions of 4.0003 DP.1*)
Reviewed/Revised: January 15, 2013; May 15, 2018; May 17, 2022; September 20, 2022; October 17, 2023

Revised:

Human Resources

This legally advised procedure is due for review as part of the regular review process. Compared to CCLC model procedure. There were updates in 2016 and 2018. Mirrors CCLC up to "Recruitment Process". Removed "quarter" references since COM schedules on semester basis. Formatting updated and HR track changes implemented. This is a 10+1. Mici 2-16-2023 and 10-25-2023
Changes as noted (formatting and numbering cleanup to be completed).
Nikki/Human Resources 8-8-2024
Questions so returned to Mia/Nikki. Academic Senate 10-25-2023
Under review. Mia/General Counsel with Nikki/HR 11-9-2023; resent 2-13-2024; resent 8-8-2024
Returned with HR revisions. Approved. Academic Senate 8-24-2024

AP 7212 TEMPORARY FACULTY

References:

Education Code Sections [53406](#), [80435](#), 87481, 87482, [and](#) 87482.5

[Education Code Section 87481](#)

The District may employ any qualified individual as a temporary faculty member for a complete academic year, but not less than one semester or quarter during an academic year unless the date of rendering first paid service begins during the second semester or third quarter and prior to March 15th. The employment of these persons shall be based upon the need for additional faculty during a particular semester, quarter, or year because a faculty member has been granted leave for a semester, quarter, or year, or is experiencing long-term illness, and shall be limited, in number of persons so employed, to that need. ~~(Education Code Section 87481)~~

[Education Code Section 87482](#)

The District may employ any qualified individual as a temporary faculty member for a complete academic year but not less than a complete semester or quarter during an academic year. The employment of those persons shall be based upon the need for additional faculty during a particular semester ~~or quarter~~ because of the higher enrollment of students during that semester ~~or quarter~~ as compared to the other semester ~~or quarter~~ in the academic year, or because a faculty member has been granted leave for a semester, ~~quarter~~, or year, or is experiencing long-term illness, and shall be limited, in number of persons so employed, to that need. Such employment may be pursuant to contract fixing a salary for the entire semester ~~or quarter~~. No person, other than a person serving as clinical nursing faculty, shall be so employed for more than two semesters or three quarters within any period of three consecutive years. ~~No person, other than a person serving as clinical nursing faculty, shall be so employed for more than two semesters or three quarters within any period of three consecutive years.~~ ~~(Education Code Section 87482)~~

[Education Code Section 87482.5](#)

A person serving as clinical nursing faculty may be employed for up to four semesters or six quarters within any period of three consecutive years ~~between July 1, 2007 and June 30, 2014~~ as long as the hiring of that person does not result in an increase in the ratio of part-time to full-time nursing faculty in the District.

Any person who is employed to teach classes for not more than 67 percent of the hours per week that are considered a full-time assignment for regular employees having comparable duties shall be classified as a temporary employee, and shall not become a contract employee. ~~However, any agreement prior to January 1, 2009, to limit temporary employees to 60 percent of the hours per week that are considered a full-time assignment will govern until the expiration of the agreement.~~ Service as a substitute on a day-to-day basis shall not be used for purposes of calculating eligibility for contract or regular status. ~~(Education Code Section 87482.5)~~

I. General Provisions

A. Equal Employment Opportunity (EEO)

Commitment to Diversity: In all phases of recruitment and hiring, equal opportunity shall be afforded to all employees and applicants for employment without discrimination on the basis of ethnic group identification, race, color, national origin, religion, age, sex, physical disability, mental disability, ancestry, gender identity, sexual orientation, language, accent, citizenship status, transgender status, parental status, marital status, economic status, veteran status, medical condition, or because the employee or applicant 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. Equal employment opportunity issues are addressed in BP/AP 3420 titled Equal Employment Opportunity and the District's EEO Plan.

Screening for temporary faculty shall be conducted in accordance with District practices and procedures for employment of regular faculty. In particular, there shall be consideration given to principles of selection that assure the greatest opportunity for participation by underrepresented groups as required by District policies and procedures.

B. Part-time Temporary Faculty Employees

Human Resources will have primary responsibility for implementing Administrative Procedures for the employment of part-time faculty employees. Such procedures for employment include provisions for assuring adequate candidate screening by a screening committee, including faculty, administration, and staff participation as appropriate; equal employment opportunity review; and necessary forms and guidelines.

II. Recruitment Methods for Part-time Temporary Faculty

~~In an effort to develop a well-qualified and diverse pool of potential part-time faculty, a year-round process for advertising and screening will be conducted for most disciplines, allowing for the continuous recruitment of part-time faculty. The determination whether a discipline warrants year-round recruiting will be made collectively by Human Resources and the administrative dean/director. Once submitted, pool applications will be held for one year. After the one-year period, applicants who have not been appointed to the pool may re-apply.~~

Recruitment:

~~In an effort to develop a well-qualified and diverse pool of potential part-time faculty, a year-round process for advertising and screening will be conducted, allowing for the continuous recruitment of part-time faculty. Applications for all disciplines or programs will be accepted throughout the year. Once screened, applications will be held for one year. After the one year~~

~~period, applicants who have not been hired will be notified by the Human Resources Departments that they may update their application and have it kept on file.~~

Exceptions:

If an unanticipated hire is needed, an expedited interview process will be conducted. However, all individuals must have a completed application packet on file with the Human Resources Office and must meet minimum qualifications prior to the beginning of the assignment.

A. Screening Committee Structure

A screening committee for each discipline recruited will be formed.

1. The Superintendent/President or designee may appoint the manager(s) for the committee and committee members.
2. The screening committee shall also be composed of at least one faculty member from the relevant discipline or a closely-related field. The selection of the faculty to serve on any given committee shall be made by the Academic Senate President or designee.
3. The Superintendent/President or designee may appoint other than District employees to participate in the recruitment process.
4. Every effort will be made to ensure the diversity of screening committees. ~~If the Executive Director of Human Resources, or designee, does not approve of the Academic Senate appointments to the screening committee due to lack of diversity, they will take necessary steps to remedy the representation.~~
5. If a committee member has to withdraw and cannot be replaced prior to the beginning of interviews, or a committee member chooses not to participate in the screening process, the committee will continue with the remaining members.
6. The Superintendent/President's *Standards of Decorum* shall be read and distributed at each convening, which reminds committee members of the shared governance model under which we operate, highlights current needs in response to legislation and social issues, delineates processes for complaints and concerns, and creates an atmosphere of collegiality and collaboration so that members feel free to participate in the process and offer up opinions for debate.
7. Training: All members of the screening committee shall be trained in the relevant State and Federal provisions for equal employment opportunity, diversity, and the search/screening process.
8. To ensure all screening committee members' voices and opinions are heard during the deliberation process, a faculty member may volunteer to co-facilitate along with the hiring manager. The co-facilitator may ask specific questions to the screening committee members related to additional input they may have during the committee's discussions during the recruitment process. For the sake of uniformity across screening committees, the questions the co-facilitator will ask will be enumerated in the committee materials and documents.
9. Members of the screening committee are acting as agents for the District and are participating in a confidential process. Committee members are prohibited from releasing any information which relates, to the recruitment process. Committee members may be held personally responsible for any unauthorized disclosure of information.

B. ~~Job~~ Part-time Temporary Pool Announcement:

1. In collaboration with the appropriate administrator and department chair, Human Resources will develop the position announcement to include:
 - a. a description of the teaching/counseling/librarian/nursing, or other non-teaching responsibilities;
 - b. representative courses to be taught, if applicable;
 - c. minimum qualifications that:
 - i. conform to the California Community College Chancellor's Office's Minimum Qualifications for Faculty and Administrators in California Community Colleges;
 - ii. include "Demonstrated sensitivity to and an understanding of the diverse academic, socioeconomic, cultural, disability, and ethnic backgrounds and learning styles of community college students and staff";
 - iii. include desirable "Knowledge, Skills and Abilities" which shall serve as the basis for the screening criteria, in conjunction with other required application materials.
 - d. The announcement may be reviewed by the Office of Student Learning and the Academic Senate.
2. The District shall actively recruit from both within and outside the District work force to attract qualified applicants and shall include, as appropriate, regional and national outreach designed to ensure that all persons, including persons from protected groups, are provided the opportunity to seek employment with the District.
3. ~~Advertising: The recruiting efforts will include, as appropriate, regional and national advertising, as well as outreach efforts in accordance with the District's EEO Plan to ensure that all persons, including persons from protected groups, are provided the opportunity to seek employment with the District.~~
4. Recruitment for all open positions shall include, but not be limited to, placement of job vacancy announcements in diversity websites and publications.
5. ~~Ads will be placed with appropriate publications and websites, including diversity websites.~~
6. ~~Individual announcements for each discipline will be developed by the Human Resources Office and shall include the following:~~
7. ~~minimum qualifications, equivalency, desirable knowledge, abilities, and skills;~~
8. ~~other terms and conditions of employment as required by contract, District policy, or State law; and~~
9. ~~the following statement: "Sensitivity to and understanding of the diverse academic, socioeconomic, cultural, disability, and ethnic backgrounds and learning styles of community college students and staff."~~
10. ~~The appropriate Deans, Directors, and Coordinators or Department Chairs will be asked to assist with developing "Desirable Knowledge, Abilities, and Skills," which will be the basis for the screening criteria. The announcements may be reviewed by the Office of Student Learning and the Academic Senate.~~
11. ~~Advertising:~~
12. ~~The recruiting efforts will include, as appropriate, regional and national advertising, as well as outreach efforts in accordance with the District's EEO Plan. An advertisement will be developed that lists all disciplines for which applications are being invited.~~
13. **Recruitment Area:**

14. ~~Ads will be placed in appropriate publications, including the internet and other electronic outlets.~~

C. ~~Application Screening Process for~~ Minimum Qualifications

1. ~~Applications and applicable materials shall be submitted using the District's website. Human Resources will conduct the initial review of the applications to ensure minimum qualifications for the position are met.~~
2. ~~All position announcements must include language that requires: "demonstrated sensitivity to and an understanding of the diverse academic, socioeconomic, cultural, disability and ethnic backgrounds of community college students and the campus community."~~
3. ~~Academic employees shall also possess the minimum qualifications prescribed for their positions by the Board of Governors of the California Community College System.~~
4. ~~If the applicant has applied for a minimum qualification equivalency or Human Resources is unable to determine if a candidate meets the minimum qualifications for a position, the application materials will be sent to the Academic Senate's designee(s). An Equivalence Committee, made up of the Academic Senate president or designee(s) and one or two discipline faculty, will review applications to determine equivalency. (See AP 7211 Faculty Service Areas, Minimum Qualifications, and Equivalencies)~~
5. ~~In compliance with the California Code of Regulations, degrees and college level coursework that are required of an academic position must be authenticated via an official transcript or verification-of-true-copy transcript from an institution accredited by an agency recognized by either the U.S. Department of Education or the Council on Postsecondary Accreditation. Further, applicants with foreign degree credentials must submit a Foreign Credential Evaluation (FCE) for degrees obtained outside the U.S. in order to demonstrate their U.S. equivalent. The College accepts FCEs from evaluation agencies approved by the State of California Commission for Foreign Transcript Evaluation.~~
~~Faculty shall meet minimum qualifications established by the Board of Governors, or shall possess qualifications that are at least equivalent to the minimum qualifications set out in the regulations of the Board of Governors. Human Resources will conduct the initial review of the applications to ensure minimum qualifications for the position are met. If the applicant has applied for a minimum qualification equivalency or Human Resources is unable to determine if a candidate meets the minimum qualifications for a discipline, the application materials will be sent to the Academic Senate's designee(s). An Equivalence Committee, made up of the Academic Senate President or designee(s) and two discipline faculty, will review applications to determine equivalency. (see AP 7211 titled Faculty Service Areas, Minimum Qualifications, and Equivalencies)~~

~~Applications will be reviewed by the Human Resources Office for minimum qualifications. If the applicant has applied for a minimum qualification equivalency, the application materials will be sent to the Academic Senate's designee.~~

Development of Screening Materials Process

1. ~~The committee will develop the detailed job-related screening criteria, weighting systems, questions, guideline answers, and teaching demonstration and/or other type of~~

performance indicator exercise(s), if applicable to be used in the interview. All screening materials will be reviewed by Human Resources for adverse impact.

~~2.~~

~~3. **Evaluation and Recommendation Process**~~

- ~~4. Screening criteria may be formulated by the committee for the purpose of identifying the best qualified applicants.~~
- ~~5. Screening criteria must include equity minded, job related qualifications that enhance equity, diversity, inclusion and reinforce the Knowledge, Skills and Abilities (KSAs) needed for the pool. At least one screening criterion must be diversity/equity/inclusion related.~~
- ~~6. Applicant Screening: Human Resources will provide the screening committee with access to view the application and applicable materials for all candidates who meet the minimum qualifications. Committee members shall individually review each qualified applicant's application materials using the previously agreed upon screening criteria. Following the screening, the committee shall develop consensus regarding the pool of applicants to be invited to interview. Every effort should be made to screen in and interview as many candidates as possible for each pool.~~
- ~~7. The hiring administrator/designee or Human Resources will schedule the selected candidates' interviews and make necessary arrangements.~~
- ~~8. Interview Process: The screening committee will formulate questions to be used during the interview process and may, at its discretion, require pre-screening activities and/or assessments of the candidate's effectiveness as appropriate to the position, such as teaching demonstrations and presentations. Interviews will be conducted using the previously agreed upon interview questions. All interview questions should be equity minded (per the adopted definition), and at least two diversity/equity/inclusion questions and one technology related question must be included when developing interview questions. Screening committee members shall individually evaluate each candidate based on their responses to the questions, the demonstration/presentation, and/or other type of performance indicator exercise(s), if applicable. Following the last interview, the screening committee will deliberate the candidates' strengths and areas for growth. The screening committee will prepare written documentation of these conclusions to Human Resources. At the conclusion of the interview process, all application and interview materials used and completed by the screening committee shall be returned to and retained by Human Resources.~~
- ~~9. Notification of Candidates: Human Resources will notify all applicants of their selection or non-selection status.
 - ~~1. If the committee does not successfully fill a new pool of instructors/counselors, the pool announcement may be renewed and the screening process restarted.~~

~~Screening Criteria: Criteria may be formulated by the committee for the purpose of reducing the applicant pool to those best qualified. All screening materials will be reviewed by Human Resources for compliance.~~

~~Pre-selection Activities, Assessments, Teaching Demonstrations and Presentations: The screening committee will formulate questions to be used during the interview process. The committee at its discretion may require pre-screening activities and/or assessments, as well as demonstrations or presentations of the candidate's effectiveness as appropriate to the teaching assignment. All screening materials will be reviewed by Human Resources for compliance.~~~~
- ~~10.~~

~~*Applicant Screening:* Human Resources will provide the screening committee with access to view the application and applicable materials for all candidates who meet the minimum qualifications for the pool. Members of the screening committee shall individually review each qualified applicant's application materials using the previously agreed upon screening criteria. Following the screening, the committee shall develop consensus regarding the pool of applicants to be invited to interview. The hiring administrator/designee or Human Resources will schedule the selected candidates' interviews and make all necessary arrangements.~~

~~*Interview Process:* Interviews will be conducted using the previously agreed upon interview questions, and screening committee members shall individually evaluate each candidate based on his/her responses to the questions, the teaching demonstration, presentation, and/or other type of performance indicator exercise(s), if applicable.~~

~~*Pool Appointments:* Following the last interview, the screening committee will deliberate the candidates' strengths and areas for concern to determine which candidates will be appointed to the pool and will prepare written documentation to Human Resources. Human Resources will notify all pool applicants of their status.~~

~~*Conclusion:* At the conclusion of the recruitment process, all application and interview materials used and completed by the screening committee shall be returned to and retained by Human Resources. If the committee does not successfully fill a new pool of instructors/counselors, the pool announcement may be renewed and the screening process restarted.~~

Applicant Screening: Members of the committee shall individually review each qualified applicant's application, transcript(s), resume or curricula vitae, and other materials which the applicant submitted, and using the standardized rating scale and previously agreed upon criteria, shall evaluate, score, and rank each applicant. Each committee member shall keep a standardized record of his/her evaluation. The committee shall agree upon the number of applicants to be invited to interview. The Department shall determine the date(s) of the interviews and Human Resources Office will schedule interviews and make all necessary arrangements.

- ~~**1. Interviews and Recommendations:** Interviews will be conducted and members of the committee shall individually evaluate and score each candidate, using the standardized rating scale, and teaching demonstration and/or other type of performance indicator exercise(s), if applicable. Each committee member shall keep a standardized record of his/her their evaluations. At the conclusion of the interview process, committee members shall discuss their evaluation scores for each candidate. The committee members shall agree, on those candidates whose names shall be submitted to Human Resources or administrative designee for reference checks. Results of reference checks shall be submitted to Human Resources. All applications, supporting documents, and screening committee documents will be returned to the Human Resources Office.~~

D. Selection

Human Resources may disqualify candidates as a result of reference/background checks. The names and contact information for the final list of candidates will be forwarded to the appropriate [dean/director and](#) department chair.

E. Appointment/Duration of Eligibility

Candidates in the pool may be offered temporary employment by the Superintendent/President or designee for approval by the Board of Trustees, however, assignments are not guaranteed. The Board of Trustees or its designee shall have the authority to make all final hiring decisions.

~~F. Notification of Candidates~~

~~G. The Human Resources Office will notify all applicants of their selection or non-selection.~~

~~H.~~

I. ~~Unsolicited Applications~~ Received Outside Active Recruitments

Applications and/or resume/CV submissions received for disciplines which the District has not posted on a year-round basis will not be accepted. Human Resources does not accept unsolicited applications outside of active recruitments.

Also see BP 7120 Employment Recruitment, AP 7126 Applicant Background Checks, AP 7210 Academic Employees, BP/AP 7330 Communicable Disease, BP 7335 Health Examinations, BP/AP 3420 Equal Employment Opportunity, BP/AP 3410 Nondiscrimination, and BP/AP 7310 Nepotism.

Office of Primary Responsibility: Human Resources

Date Approved: May 18, 2010 *(Replaced College of Marin Procedure 5.0006.1 DP.1)*

Date Reviewed/Revised: November 18, 2011

Date Reviewed/Revised:

Human Resources

Due for review as part of the regular review cycle. Legally advised model CCLC reviewed for comparison.

No Changes beyond formatting.

Mici 8-8-2024

Approved. Nikki H/Human Resources 8-8-2024

Copy to Mia R/General Counsel 8-8-2024

AP 7380 RETIREE HEALTH BENEFITS – ACADEMIC EMPLOYEES

References:

Education Code Sections 7000 et seq.

The District shall permit any former academic employee who has retired from the District to enroll in the health and welfare benefit plan and/or dental care benefit plan currently provided to its current academic employees. In addition, the District shall also permit the enrollment of the surviving spouse of any former academic employee who either retired from the District or was, at the time of his/her/their death, employed by the District as an academic employee and a member of the State Teacher's Retirement System. Enrollment shall be in accordance with the criteria specified in the respective collective bargaining agreement, the Consolidated Omnibus Budget Reconciliation Act (COBRA), and/or under the rules of the District-sponsored plan.

For academic employees not covered by a collective bargaining agreement and hired prior to October 14, 1986 and have at least ten (10) years of full time service, the District will provide paid medical and dental coverage with benefits equal to those in effect at the time of retirement to the retiree and one dependent until the retiree reaches age seventy (70) or the retiree's death, whichever is sooner. The District will provide the retiree and one dependent medical and dental coverage for each fiscal year following retirement, the retiree may select a plan as made available each fiscal year. The retiree may change carriers during the annual open period. The retiree and dependent shall be responsible for paying any future increases that are charged to academic employees.

Office of Primary Responsibility: Human Resources

Date Approved: March 19, 2013

Date Reviewed/Revised: