



**Kern Community College District
Administrative Procedures**
Chapter 7 – General Personnel Administration

Governance Process: Information Only

Reason for Revision: To Establish District Procedure

AP 7D2A Prohibition of Harassment

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 sets forth a procedure for the investigation and resolution of complaints of harassment by or against any 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.

Definitions

General Harassment: Harassment based on race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation of any person, military and veteran status, 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 or her ability to participate in or to realize the intended benefits of an institutional activity, employment, or resource. 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 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 is sufficiently severe or pervasive so as to alter the conditions of an individual's learning or work environment, unreasonably interfere with an individual's academic or work performance, or create 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 would perceive the environment as hostile. A single or isolated incident of sexual harassment may be sufficient to create a hostile environment if it is severe, i.e. a sexual assault. Sexually harassing conduct can occur between people of the same or different genders. The standard for determining whether conduct constitutes sexual harassment is whether a reasonable person of the same gender 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, 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 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.

Admin 4/2/18
Ch. Cab. 4/17/18

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Unlawful Discrimination Complaint Process

~~In the event of the notification of an unlawful discrimination complaint, pursuant to Policy **7D4**, with the College, the process shall be as indicated below:~~

~~As is indicated in Policy **7D4**, this process covers alleged unlawful discrimination on the basis of age, race, color, national origin, gender, disability, religion, sexual orientation, marital status, or other forms of unlawful discrimination. Complaints may be filed within one (1) year of the alleged unlawful discrimination.~~

~~1) Any student or employee who feels that he or she is being unlawfully discriminated against is encouraged to informally notify and resolve the complaint with any of the following Responsible Personnel:~~

- ~~• Instructor~~
- ~~• Advisor or Counselor~~
- ~~• Department/Division Chair~~
- ~~• Dean or Vice President~~
- ~~• Title IX Coordinator~~
- ~~• College Human Resources Manager or District Human Resources Director~~

~~2) Any student or employee who feels that he or she is being unlawfully discriminated against is entitled to file a formal complaint with any of the following Responsible Personnel for resolution:~~

- ~~• College Vice President~~
- ~~• College Human Resources Manager or District Human Resources Director~~
- ~~• Vice Chancellor, Human Resources~~

~~3) Supervisors shall take immediate action to report and/or remedy any perceived unlawful discrimination based on age, race, color, national origin, gender, disability, religion, sexual orientation, marital status, or other forms of unlawful discrimination.~~

- ~~4) At any point in the investigation, the student or the employee has the right to involve more than one (1) of the persons listed above.~~
- ~~5) The responsibilities of the person to whom the complaint has been made will include a written description of the complaint as described by the complainant. Based on the information in the complaint, the recipient of the complaint will implement one (1) of the following courses of action:
 - ~~• Informal Complaint Procedure, or~~
 - ~~• Formal Complaint Procedure~~~~

Informal Complaint Procedure

~~The purpose of the informal complaint process is to allow an individual who believes he/she has been unlawfully discriminated against to resolve the issue through a consultation process rather than the more formal investigative process provided by the College.~~

~~The steps of the informal procedure are:~~

- ~~1) If the complainant believes that discussions of alleged unlawful discrimination with the alleged perpetrator/respondent or his/her supervisor would be unproductive or inappropriate, the complainant should consult with the Responsible Personnel or designee who shall ascertain as much detail as possible including date(s), time(s), description of incident(s), party(ies) involved, witness(es), etc.~~
- ~~2) The Responsible Personnel or designee will counsel the complainant regarding the Unlawful Discrimination Complaint procedure. Complainant shall be advised that the informal procedure is not a pre-requisite for filing a formal Unlawful Discrimination complaint. [California Code of Regulations, Section 59327(2)]~~
- ~~3) The complainant's allegation of unlawful discrimination shall be kept as confidential as possible by the Responsible Personnel or designee and shall be used only to provide a factual basis for resolving the complaint.~~
- ~~4) Within ten (10) days of receipt of the informal complaint, the Responsible Personnel or designee shall contact the alleged perpetrator/respondent in an attempt to resolve the matter informally. The alleged perpetrator/respondent will be asked to respond to the allegations.~~
- ~~5) Within ten (10) days of discussing the matter with the alleged perpetrator/respondent, the Responsible Personnel or designee will review the statements of both the complainant and the alleged perpetrator/respondent and meet individually with each party, and if necessary, meet with witnesses in an attempt to resolve the matter.~~
- ~~6) Steps One (1) through Five (5) of this informal procedure shall not exceed the ninety (90) days afforded to complainants filing a formal complaint. [California Code of Regulations, Section 59336]~~

Possible Outcomes of the Informal Complaint Procedure

- ~~1) If the matter is resolved, the Responsible Personnel or designee will put the resolution in writing and meet with both parties who will review and sign the agreement.~~
- ~~2) If the parties agree there has been no unlawful discrimination and are satisfied with the resolution, the documents connected with the allegation shall be destroyed by the Responsible Personnel or designee and the complaint will be considered resolved.~~
- ~~3) If the parties agree that unlawful discrimination has occurred, but are satisfied with the resolution, then the documentation connected with the allegations and resolution will be placed in an employee's official personnel file in the District Office of Human Resources and shall be considered sealed after a period of three (3) years.~~
- ~~4) If, after negotiations between the parties, it becomes clear to the Responsible Personnel or designee that an informal resolution cannot be reached, he/she will convey the determination to both parties. The Responsible Personnel or designee will also inform the complainant of the right to file a formal unlawful discrimination complaint under this procedure.~~

Formal Complaint Procedure

- ~~1) The complainant shall initiate the formal complaint procedure by filing a complaint in writing on the District's Unlawful Discrimination Formal Complaint form.~~
- ~~2) Within ten (10) days of receipt of the formal complaint, the Responsible Personnel or designee shall contact the alleged perpetrator/respondent in an attempt to resolve the matter informally. The alleged perpetrator/respondent will be asked to respond to the allegations.~~
- ~~3) Within ten (10) days of discussing the matter with the alleged perpetrator/respondent, the Responsible Personnel or designee will review the statements of both the complainant and the alleged perpetrator/respondent and meet individually with each party, and if necessary, meet with witnesses in an attempt to resolve the matter.~~
- ~~4) Both parties have a right to be accompanied by a representative at each step in this procedure and shall have the right to present documentary evidence and witness statements.~~
- ~~5) Within ninety (90) days of receiving the formal complaint, the following shall be completed:
 - ~~a) Investigation of the unlawful discrimination complaint.~~
 - ~~b) A written administrative determination letter to both the complainant and alleged perpetrator/respondent specifying the following:~~~~

- ~~1. All behaviors that were alleged to constitute the unlawful discrimination.~~
- ~~2. A decision that the unlawful discrimination complaint is substantiated or unsubstantiated.~~
- ~~3. A description of any corrective action to be taken by the College or District administration. Notice of the complainant's appeal rights.~~
- ~~6) Only if the investigation substantiates the alleged unlawful discrimination the written administrative letter shall be placed in the perpetrator's personnel file. The administrative letter placed in the perpetrator's official personnel file in the District Office of Human Resources shall be considered sealed after a period of three (3) years.~~
- ~~7) If complainant is not satisfied with the results of the administrative determination, he/she may submit a written appeal to the Board of Trustees within fifteen (15) days of the date of notice of the administrative determination. The Board shall review the original complaint, the investigative report, administrative determination, and the appeal, and shall issue a decision within forty-five (45) days after the filing of the appeal.~~
- ~~8) For complaints filed by students, if the complainant is not satisfied with the Board's decision, he/she may file an appeal with the State Chancellor's Office as prescribed in the Education Code. Students may also file a complaint with Office for Civil Rights of the U.S. Department of Education (OCR) during any step in the unlawful discrimination investigative process.~~
- ~~9) Within one hundred and fifty (150) days after receiving a written formal complaint, the District will forward to the State Chancellor's Office the results of the investigation as described in this Procedure.~~
- ~~10) For complaints filed by employees, the employee may file a complaint with the Department of Fair Employment and Housing or the Equal Opportunity Commission during any step in the unlawful discrimination complaint investigative process.~~

AP 7D4A Discrimination and Harassment Complaints and Investigations 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 may file a formal or informal complaint of harassment, discrimination, or retaliation.

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

Informal Complaints

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

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

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

Formal Complaints

Formal Complaints must be filed with the Chancellor of the California Community Colleges or the **Vice Chancellor 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 **Chancellor** 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 or college human resources department and on the college's/district's web sites.**

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 **Vice Chancellor Human Resources** will promptly return it to the complainant and specify the defect. If the sole defect is that the Formal Complaint was filed outside the applicable proscribed timeline, the **Vice Chancellor Human Resources** will handle the matter as an informal complaint.

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

The actual investigation of complaints may be assigned by **the Vice Chancellor Human Resources or General Counsel** to other staff or to outside persons or organizations under contract with the District. This shall occur whenever the **Vice Chancellor Human Resources** is named in the complaint or implicated by the allegations in the complaint.

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

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

If a complainant decides to file a formal written unlawful discrimination or harassment complaint against the District, he/she must file the complaint on a form prescribed by the California Community Colleges Chancellor's Office. These approved forms are available from **the District or college human resources department and on the**

college's/district's web sites and at the California Community Colleges Chancellor's Office website.

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

- the Vice Chancellor Human Resources;
- the Chancellor; 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 Department of Fair Employment and Housing (DFEH).

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

Any District employee who receives a harassment or discrimination complaint shall notify the Vice Chancellor 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 Vice Chancellor Human Resources 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 the complainant that he/she need not participate in an informal resolution of the complaint, as described above, and has the right to end the informal resolution process at any time. **NOTE:** The OCR September 2017 Interim Guidance now permits mediation in all cases as long as all parties agree. Districts should exercise care in using mediation in cases of sexual violence.
- Advise a student complainant that he/she may file a complaint with the Office of Civil Rights of the U.S. Department of Education and employee complainants may file a complaint with the Department of Fair Employment and Housing. All complainants should be advised that they have a right to file a complaint with local law enforcement, if the act complained of is also a criminal act. The District must investigate even if the complainant files a complaint with local law enforcement. In addition, the District should ensure that complainants are aware of any available resources, such as counseling, health, and mental health services. The **Vice Chancellor Human Resources** 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 **Vice Chancellor Human Resources or designee** should notify the complainant of his/her 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 Vice Chancellor Human Resources or General Counsel 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 complainants opt for informal resolution, the designated officer will determine whether further investigation is necessary to ensure resolution of the matter and utilize the investigation process outlined below as appropriate. In the case of a formal complaint, the investigation will include interviews with the complainant, the 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 complainant opts for an informal resolution, the **Vice Chancellor Human Resources or designee** may limit the scope of the investigation, as appropriate. The District will keep the investigation confidential to the extent possible, but cannot guarantee absolute confidentiality because release of some information on a "need-to-know-basis" is essential to a thorough investigation. When determining whether to maintain confidentiality, the District may weigh the request for confidentiality against the following factors: the seriousness of the alleged harassment; the complainant's age; whether there have been other harassment complaints about the same individual; and the accused individual's rights to receive information about the allegations if the information is maintained by the District as an "education record" under the Family Educational Rights and Privacy Act (FERPA), 20 U.S. Code Section 1232g; 34 Code Federal Regulations Part 99.15. The District will inform the complainant if it cannot maintain confidentiality.

Investigation Steps: The District will fairly and objectively investigate harassment and discrimination complaints. Employees designated to serve as investigators under this policy shall have adequate training on what constitutes sexual harassment, including sexual violence, and that they understand how the District's 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 no-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.

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 summary of the testimony provided by each witness interviewed by the investigator;
- An analysis of relevant evidence collected during the course of the investigation;
- 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; 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.

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 the complainant, and written notice setting forth all of the following to both the complainant and the Chancellor:

- The determination of the **Chancellor 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 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 **Chancellor 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 Department of Fair Employment and Housing or the U.S Equal Employment Opportunity Commission.

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. 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, he/she may, within fifteen 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 his/her right to appeal this decision.

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 thirty 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 Department of Fair Employment and Housing.

Extension of Time

Within 150 days of receiving a formal complaint, 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 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.

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 complainant, of the District's administrative determination and his/her 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.

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

Sexual Misconduct:

Sexual misconduct includes sexual harassment and sexual violence.

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

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

Complaint Procedure:

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

All responsible employees are required to report all actual or suspected sexual misconduct to the Title IX Coordinator immediately. A responsible employee is any employee who has the authority to take action to redress sexual misconduct, who has been given the duty of reporting incidents of sexual misconduct to the **Title IX Coordinator** or **Deputy Title IX Coordinator**, or whom a student or employee could reasonable believe has this authority or duty. The District is on notice if a responsible employee knew, or in the exercise of reasonable care should have known, about the sexual misconduct.

Any person may make a complaint by contacting the Title IX Coordinator directly. **The District's Title IX Coordinator is Vice Chancellor for Human Resources Tonya Davis at 2100 Chester Avenue, Bakersfield California 93301, (661)336-5100.** The Title IX Coordinator will receive all relevant details about the alleged sexual misconduct reported to the District responsible employee in order to determine what occurred and how to resolve the situation. This includes the names of alleged victim and alleged perpetrator (if known), and the date, time, and location of the alleged sexual misconduct.

Privileged or Confidential Reporting:

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

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

Non-professional counselors including front desk personnel and student employees in the course of their duties, may maintain confidentiality. They are not required to report actual or suspected sexual misconduct to the Title IX Coordinator in a way that identifies the student without the victims consent.

Authority over Parties:

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

Standard of Proof:

The District will use a “probable cause” standard of proof in determining whether there has been a violation of this policy as required by Title 5 CCR.

Upon Receiving the Complaint – Health and Safety:

The Title IX Coordinator or Deputy Title IX Coordinator will make an immediate assessment concerning the health and safety of the victim and campus community as a whole. The District will provide the reporting party and responding party with immediate, interim measures necessary to protect his/her health and safety. These immediate, interim measures may include providing an escort to ensure that the victim can move safely between classes, ensuring that the victim and perpetrator do not attend the same classes or work in the same area, preventing offending third parties from entering campus, providing counseling services or a referral to counseling services, providing academic support services, such as tutoring, arranging for a victim to retake a course or withdraw from a course without penalty, including ensuring that any changes do not adversely affect the victims’ academic record, and reviewing any disciplinary actions taken against the victim to see if there is a causal connection between the harassment, discrimination, or retaliation and the misconduct that may have resulted in the victim being disciplined.

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

Communicating that the Conduct is Unwelcome:

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

Intake and Processing of the Complaint:

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

Confidentiality:

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

Fact-Finding Investigation:

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

The victim and accused will have equal opportunity to present relevant witnesses and other evidence to the District investigator. The District will provide the same opportunities to the victim and accused.

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

Reporting to California Community Colleges Chancellor's Office:

The District considers all sexual misconduct complaints to be formal complaints. The Title IX Coordinator or Chancellor must notify the State Chancellor's Office of any sexual misconduct complaints. Upon completing the investigation, the District shall forward to the California Community Colleges Chancellor's Office a copy of the investigative report and administrative determination and to the complainant a copy or summary of the investigative report and administrative determination.

Dissemination of Policy and Procedures

District Policy and Procedures related to harassment will include information that specifically addresses sexual violence. District policy and procedures will be provided to all students, faculty members, members of the administrative staff and members of the support staff, 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, 2006, the District shall provide at least two hours of classroom or other effective interactive training and education regarding sexual harassment to all supervisory employees who are employed as of July 1, 2005. All new supervisory employees must be provided with the training and education within six months of their assumption of a supervisory position. After January 1, 2006, the District shall provide sexual harassment training and education to each supervisory employee once every two years.

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

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.

Training of all staff will be conducted. This includes counselors, faculty, health personnel, law enforcement officers, coaches, and all staff who regularly interact with students. Training for academic staff should emphasize environmental harassment in the classroom. The District will also provide training to students who lead student organizations. The District should provide copies of the sexual harassment policies and training to all District law enforcement unit employees regarding the grievance procedures and any other procedures used for investigating reports of sexual violence.

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

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

Education and Prevention for Students

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

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

Admin 4-2-18
Ch. Cab. 4-17-18

**Kern Community College District
Administrative Procedures**
Chapter 7 – General Personnel Administration

Governance Process: Information Only

Reason for Revision: To Establish District Procedure

AP 701 Workplace Violence

The District is committed to providing a safe work environment that is free of violence and the threat of violence.

Responding to Threats of Violence

The top priority in this process is effectively handling critical workplace incidents, especially those dealing with actual or potential violence.

Violence or the threat of violence against or by any employee of the District or any other person is unacceptable.

Should a non-employee on District property demonstrate or threaten violent behavior, he/she may be subject to criminal prosecution.

Should an employee, during working hours, demonstrate or threaten violent behavior he/she may be subject to disciplinary action.

The following actions are considered violent acts:

- Striking, punching, slapping or assaulting another person.
- Fighting or challenging another person to fight.
- Grabbing, pinching or touching another person in an unwanted way whether sexually or otherwise.
- Engaging in dangerous, threatening or unwanted horseplay.
- Possession, use, or threat of use, of a firearm, knife, explosive or other dangerous object, including but not limited to any facsimile firearm, knife or explosive, on District property, including parking lots, other exterior premises, District vehicles,

or while engaged in activities for the District in other locations, unless such possession or use is a requirement of the job.

- Threatening harm or harming another person, or any other action or conduct that implies the threat of bodily harm.
- Bringing or possessing any dirk, dagger, ice pick, or knife having a fixed blade longer than 2½ inches upon the grounds, unless the person is authorized to possess such a weapon in the course of his/her employment, has been authorized by a District employee to have the knife, or is a duly appointed peace officer who is engaged in the performance of his/her duties.

Any employee who is the victim of any violent threatening or harassing conduct, any witness to such conduct, or anyone receiving a report of such conduct, whether the perpetrator is a District employee or a non-employee, shall immediately report the incident to his/her supervisor or other appropriate person.

The contact information is as follows:

Local law enforcement – 911

Vice Chancellor, Human Resources – 661-336-5141

College Human Resources Manager, BC – 661-395-4850

College Human Resources Manager, CC – 760-384-6259

College Human Resources Manager, PC – 559-791-2457

No one, acting in good faith, who initiates a complaint or reports an incident under this policy will be subject to retaliation or harassment.

Any employee reported to be a perpetrator will be provided both due process and representation before disciplinary action is taken.

In the event the District fears for the safety of the perpetrator or the safety of others at the scene of the violent act, District campus safety or appropriate law enforcement personnel will be called.

**Kern Community College District
Administrative Procedure**
Chapter 7 – General Personnel Administration

Governance Process: Information Only

Reason for Revision: To Establish District Procedure

AP 702 Reporting of Crimes

Employees of the District who are witnesses or victims of a crime should immediately report the crime to appropriate law enforcement authorities.

In the event an employee is assaulted, attacked or menaced by a student, the employee shall notify his/her supervisor as soon as practical after the incident. The supervisor of any employee who is attacked, assaulted, or menaced shall assist the employee to promptly report the attack or assault to the appropriate law enforcement authorities. The supervisor himself/herself shall make the report if the employee is unable or unwilling to do so. Reporting a complaint to local law enforcement will not relieve the District of its obligation to investigate all complaints of harassment.

The District shall publish warnings to the campus community about the following crimes:

- Criminal homicide – murder and non-negligent manslaughter;
- Criminal homicide – negligent manslaughter;
- Sex offenses – forcible and non-forcible sex offenses;
- Domestic violence, dating violence and stalking;
- Robbery;
- Aggravated assault;
- Burglary;
- Motor vehicle theft;
- Arson;
- Arrests for liquor law violations, drug law violations, and illegal weapons possession;
- Persons who were not arrested for liquor law violations, drug law violations, and illegal weapons possession, but who were referred for campus disciplinary action for same;
- Crimes that manifest evidence that the victim was intentionally selected because of the victim's actual or perceived race, gender, religion, sexual orientation, ethnicity, or disability and involve larceny-theft, simple assault, intimidation, destruction/damage/vandalism of property, or any other crime involving bodily injury;

- Those reported to appropriate law enforcement authorities; and
- Those that are considered to represent a continuing threat to other students and employees.

In the event that a situation arises, either on or off campus, that, in the judgment of the President or designee, constitutes an ongoing or continuing threat, a campus wide “timely warning” will be issued. The warning will be issued through the college e-mail system to students, faculty, staff and the campus’ student newspaper. The information shall be disseminated by the President or designee in a manner that aids the prevention of similar crimes.

Depending on the particular circumstances of the crime, especially in all situations that could pose an immediate threat to the community and individuals, the President or designee may also post a notice on the campus-wide electronic bulletin board on the College web site, providing the community with more immediate notification. The electronic bulletin board is immediately accessible via computer by all faculty, staff and students. Anyone with information warranting a timely warning should report the circumstances to the public safety office.

The District shall not be required to provide a timely warning with respect to crimes reported to a pastoral or professional counselor.

If there is an immediate threat to the health or safety of students or employees occurring on campus, the District shall follow its emergency notification procedures.

The District shall annually collect and distribute statistics concerns crimes on campus. All college staff with significant responsibility for student and campus activities shall report crimes about which they receive information.

The District shall publish an Annual Security Report every year by October 1 that contains statistics regarding crimes committed on campus and at affiliated locations for the previous three years. The Annual Security Report shall also include policies pertaining to campus security, alcohol and drug use, crime prevention, the reporting of crimes, sexual assault, victims’ assistance program, student discipline, campus resources and other matters. The District shall make the report available to all current students and employees. The District will also provide perspective students and employees with a copy of the Annual Security Report upon request. A copy of the Annual Security Report can be obtained by contacting the college public safety office or at the Website address published at:

<https://www.bakersfieldcollege.edu/public-safety/clery-report>

https://www.cerrocoso.edu/sites/cerrocoso.edu/files/2017%20ASR%20Report%20Final_10.03.17.pdf

**** The link to Porterville’s ASR will be added when that link becomes live.**

To Report a Crime:

Contact Campus Safety Office at 661-395-4554 (non-emergencies)] and dial 9-1-1 (emergencies only) Bakersfield College;

760-384-6367 (non-emergencies)] and dial 9-1-1 (emergencies only) Cerro Coso College:

and 559-791-2440 (non-emergencies)] and dial 9-1-1 (emergencies only) Porterville College.

Any suspicious activity or person seen in the parking lots or loitering around vehicles or inside buildings should be reported to the police department. In addition you may report a crime to the following areas:

Vice Chancellor, Human Resources – 661-336-5141

College Human Resources Manager, BC – 661-395-4850

College Human Resources Manager, CC – 760-384-6259

College Human Resources Manager, PC – 559-791-2457

The District does not allow victims or witnesses to report crimes on a voluntary, confidential basis for inclusion in the annual disclosure of crime statistics.

Admin 4-2-18
Ch. Cab. 4-17-18

**Kern Community College District
Board Policy**
Chapter 7 – General Personnel Administration

Governance Process: Information Only

Reason for Revision: To Establish District Policy

7D2A Sexual Harassment

~~**7D2A1** — The Board of Trustees of the Kern Community College District will not tolerate any behavior which constitutes sexual harassment of staff or students. It is the policy of the Kern Community College District that members of the college community, including visitors, guests, and contractors, may not sexually harass another person employed or contracted to do business by or on District property.~~

~~**7D2A1A** — For the purpose of this policy, sexual harassment is defined as unwelcome sexual advances; requests for sexual favors; and/or physical conduct or oral/written communication of an intimidating, hostile, or offensive sexual nature where:~~

~~— Submission to such conduct is made either explicitly or implicitly a term or condition of employment or a student's status in a course, program, or activity; or~~

~~— Submission to or rejection of such conduct is used as a basis for employment decisions or as a basis for academic or other decisions affecting a student; or~~

~~— Such conduct has the purpose or effect of substantially interfering with an employee's work performance or a student's educational experience, or creates an intimidating, hostile or offensive working or academic environment.~~

~~**7D2A2** — The Kern Community College District is committed to maintaining a working and educational environment free of sexual harassment.~~

~~**7D2A3** — When an allegation of sexual harassment is brought to the attention of a supervisor, whether reported by the individual who is the subject of the alleged harassment, or by a witness, the supervisor shall report the allegation to the College Human Resources~~

~~—Manager. The College Human Resources Manager shall investigate the allegation according to Procedure 7D4A.~~

~~7D2A4 An employee or student may be subject to disciplinary action for violation of this policy.~~

BP 7D2A Prohibition of Harassment

All forms of harassment are contrary to basic standards of conduct between individuals and are prohibited by state and federal law, as well as this policy, and will not be tolerated. 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. It shall also be free of other unlawful harassment, including that which is based on any of the following statuses: race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation of any person, or military and veteran status, or because he/she is perceived to have one or more of the foregoing characteristics.

The District seeks to foster an environment in which all employees, students, unpaid interns, and volunteers feel free to report incidents of harassment without fear of retaliation or reprisal. Therefore, the District also strictly prohibits retaliation against any individual for filing a complaint of harassment or for participating in a harassment investigation. Such conduct is illegal and constitutes a violation of this policy. All allegations of retaliation will be swiftly and thoroughly investigated. If the District determines that retaliation has occurred, it will take all reasonable steps within its power to stop such conduct. Individuals who engage in retaliatory conduct are subject to disciplinary action, up to and including termination or expulsion.

Any student, employee, unpaid intern, or volunteer who believes that he/she has been harassed or retaliated against in violation of this policy should immediately report such incidents by following the procedures described in AP 7D2A. Supervisors are mandated 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 **Chancellor** shall ensure that the institution undertakes education and training activities to counter discrimination and to prevent, minimize and/or eliminate any hostile environment that impairs access to equal education opportunity or impacts the terms and conditions of employment.

The **Chancellor** shall establish procedures that define harassment on campus. The **Chancellor** shall further establish procedures for employees, students, unpaid interns, volunteers, and other members of the campus community that provide for the investigation and resolution of complaints regarding harassment and discrimination, and procedures for students to resolve complaints of harassment and discrimination. All participants are protected from retaliatory acts by the District, its employees, students, and agents.

This policy and related written procedures (including the procedure for making complaints) shall be widely published and publicized to administrators, faculty, staff, students, unpaid interns, and volunteers particularly when they are new to the institution. They shall be available for students, employees, unpaid interns, and volunteers in all administrative offices, and shall be posted 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. Unpaid interns who violate this policy and related procedures may be subject to disciplinary measure up to and including termination from the internship or other unpaid work experience program.

Admin 4-2-18
Ch. Cab. 4-24-18



Kern Community College District
Board Policy
Chapter 7 – General Personnel Administration

Governance Process: Information Only

Reason for Revision: To Establish District Policy

BP 70 Workplace Violence

The Board is committed to providing a District work and learning environment that is free of violence and the threat of violence. The Board's priority is the effective handling of critical workplace violence incidents, including those dealing with actual or potential violence.

The Chancellor shall establish administrative procedures that assure that employees are informed regarding what actions will be considered violent acts, and requiring any employee who is the victim of any violent conduct in the workplace, or is a witness to violent conduct to report the incident, and that employees are informed that there will be no retaliation for such reporting.