
**Kern Community College District
Administrative Procedures
Chapter 3 – General Institution**

AP 3420 EQUAL EMPLOYMENT OPPORTUNITY

References:

~~20 U.S. Code Sections 1681 et seq.;~~
Education Code Sections 87100 et seq.;

Government Code Sections 7400 et seq. and 12940 et seq.;

Title 5 Sections 53000 et seq. and 59300 et seq.;

ACCJC Accreditation Standard ~~3III.A.12~~

~~Note: This procedure is legally required.~~

The District Chancellor shall develop, for review and adoption by the Board, a plan for equal employment opportunity that complies with the Education Code and Title 5 requirements as from time to time modified or clarified by judicial interpretation.

The District will continuously review its policies, procedures, practices, pool and workforce statistics, and any other factor that might contribute to workforce imbalance or adversely impact employment opportunities of members of protected groups.

The District will annually review the Equal Employment Opportunity Plan and revise as appropriate to address any problems with regard to recruiting a diverse workforce on the schedule provided by the ~~State California Community Colleges~~ Chancellor's Office. *If revisions are necessary, the revised plan shall be submitted to the California Community Colleges Chancellor's Office within 90 days of the effective date of the revisions or amendment(s). If the California Community Colleges Chancellor's Office determines that the District's policies do not comply with Title 5 Sections 59300 et seq., the California Community Colleges Chancellor's Office may require the District to modify its policies.*

Information regarding Equal Employment Opportunity will be made available annually to the staff and community. *The District will post a copy of the EEO plan on the District's website. All managers and supervisors shall be given copies of the plan as revised from time to time and any guidelines for implementing the plan. Copies of the plan shall be provided to the Academic Senate and the exclusive representatives of any units of employees.*

The District's Human Resources Department will continue to assure reasonable accommodation for applicants and employees with disabilities upon request.

Pre-employment physicals or drug testing shall be conducted only following an offer of

employment. This offer of employment is conditioned on the employee either passing these tests or providing proof of disability [as defined in the Americans with Disabilities Act (ADA)]. The District will provide reasonable accommodation upon request to applicants and employees in accordance with Federal Americans with Disabilities Act (ADA).

Whenever possible the names, titles, office locations, and office telephone numbers of individuals serving as liaisons of Equal Employment Opportunity programs, Equal Employment Opportunity officers, receivers of unlawful discrimination complaints, responsible personnel, ADA coordinators, and others responsible for Equal Employment Opportunity functions shall be identified and made public to employees and students.

The Board of Trustees recognizes and accepts its responsibilities under the California Education Code and the California Code of Regulations (Title 5) to:

- Assume overall responsibility for the success of the District's effort to achieve Equal Employment Opportunity.
- Approve the District and College Staff Availability Data as well as any revisions; and assure that these are submitted to appropriate agencies in a timely fashion.
- Assure that in all employment procedures for all positions there is no unlawful discrimination.
- Provide a supportive environment free of cultural bias for all staff and students.
- *To make a continuous good faith effort to comply with the requirements of the Plan.*

EEO Advisory Committee

An Equal Employment Opportunity Advisory Committee shall be established to advise the District on personnel matters relating to equal employment opportunities.

~~The Equal Employment Opportunity Advisory Committee will review Staff Availability Data and other relevant data for the purpose of advising the District and assisting in its commitment and goals in achieving equal employment opportunities.~~

Composition of the Equal Employment Opportunity Advisory Committee shall *include a diverse membership and include members from District stakeholder groups, including but not limited to, students, faculty, and classified staff.* ~~approximate a balance between District employees and Community members and shall provide for wide representation, including ethnic minorities, women, and the disabled whenever possible.~~

The District Equal Employment Opportunity Advisory Committee members shall be appointed by the District Equal Employment Opportunity Officer, except that the faculty representatives shall be selected by the colleges Academic Senates and shall serve for a period of three (3) years. The Committee shall meet at least once in every calendar year.

Members of the EEO Advisory Committee as well as members of the District governing board shall receive training in all of the following: applicable Title 5 regulations and of state and federal nondiscrimination laws; the educational benefits of workforce diversity; the identification and elimination of bias in hiring decisions; and the role of the advisory committee in drafting and implementing the District's EEO plan.

The responsibilities of the Committee shall include, but not be limited to, the following:

- Review and advise on recruitment efforts: job announcements, interview protocols, retention efforts and other aspects of the hiring, retention, and promotion process that impact the District's ability to attract and retain a diverse faculty and staff;
- Advise on implementing the District's obligation to hire faculty and administrators with a demonstrated sensitivity to, and understanding of, the diverse academic, socioeconomic, cultural, disability, and ethnic backgrounds of community college students;
- Promote communication with community groups and organizations for people with disabilities;
- Promote hiring of faculty who have, themselves, graduated from a community college;
- Develop communications among departments to foster understandings of the Plan;
- To advise the District Chancellor regarding special training or staff developmental needs;
- Review the Plan and monitor its progress;
- Review Staff Availability Data and other relevant data for the purpose of advising the District and assisting in its commitment and goals in achieving equal employment opportunities.
- Recommend changes need in the Plan; and
- Review and approve the annual written report to the District Chancellor, the District's governing board, and the California Community Colleges Chancellor's Office.

Responsible District Officers

The following District officers shall be responsible and accountable for providing District-wide leadership in Equal Employment Opportunity:

The Vice Chancellor, Human Resources shall assume administrative responsibility as the "EEO Officer" for implementation of the Equal Employment Opportunity Policy.

The Vice Chancellor, Human Resources or his/her/their designee shall be responsible for the ongoing day-to-day implementation administration of this policy. This day-to-day implementation ongoing administration, in cooperation with the College Equal Employment Opportunity officers, shall include:

- Monitoring the employment process to ensure that selection or elimination of candidates for employment is based on job-related criteria.

- Providing Multi-college District Staff Availability Data, as it is made available to the District from the California Community Colleges Chancellor's Office.
- Initiating action to correct any identified Equal Employment Opportunity concerns.
- Receiving, investigating, and seeking resolution of unlawful discrimination complaints.

The faculty and staff of this District shall be responsible and accountable as follows:

- Foster and promote a positive environment and overall hospitable atmosphere to staff and students of all cultures and heritages, encouraging the appreciation and value of diversity to the College communities.
- Act on behalf of the District in recruitment and selection of personnel. In this capacity, faculty and staff shall comply with all applicable state and federal laws and regulations.

Annual Evaluation

The District and Equal Employment Opportunity Officer(s) shall collect and continually monitor its employee and applicant demographic data to evaluate the implementation of the EEO Plan and to conduct the analyses required by Title 5. ~~conduct periodic internal auditing, reporting, and evaluating of the effectiveness of the Equal Employment Opportunity Program.~~

The Equal Employment Opportunity Liaisons shall compile an annual workforce and utilization analysis of District personnel and shall use the data to recruit a diverse applicant pool and workforce.

College Equal Employment Opportunity Liaisons shall monitor the ethnicity and gender make-up (including non-binary options) as well as data concerning promotions of positions on a continual basis. The opportunity for each employee to identify his/her/their gender, ethnicity and, if applicable, disability in a manner prescribed by the California Community Colleges Chancellor's Office consistent with state and federal law. ~~must allow for such person to designate multiple ethnic groups with which he/she/they identify. However, for reporting purposes, such person may only be counted in one group.~~

An annual report to the California Community Colleges Chancellor's Office of this employment-related demographic data in a manner prescribed by the Chancellor. To facilitate analysis, all applicants and employees must be assigned a job category. The report shall identify each employee as belonging to one of the following seven job categories:

- executive/administrative/managerial
- faculty and other instructional staff

- professional non-faculty
- secretarial/clerical
- technical and paraprofessional
- skilled crafts; and
- service and maintenance.

Districts shall review the annually collected demographic data to determine if significant underrepresentation of a monitored group may be the result of non-job-related factors in the employment process. For the purposes of this subdivision, the phases of the employment process include but are not limited to recruitment, hiring, retention, and promotion.

Employment Procedures

The District and Colleges shall provide faculty/staff in-service training on diversity.

Each College's Human Resources Department is responsible for providing training to all staff on Equal Employment Opportunity programs and issues.

The District's Equal Employment Opportunity Advisory Committee shall work cooperatively with Human Resources to effectively utilize Equal Employment Opportunity funds allocated to the District.

The District shall pursue hiring practices, which effect Equal Employment Opportunity policies.

All employment practices will be based on job-related factors, considering seniority only where required by law.

Job Analysis and Validation

The Vice Chancellor, Human Resources or his/her/their designee shall assure that a proper job analysis is performed for every job filled by the District to determine and validate the knowledge, skills, abilities, and characteristics an employee must possess to perform the job satisfactorily.

A statement of bona fide essential functions and minimum qualifications shall be developed for all positions.

Job Description

Every job description shall provide a general statement of job duties and responsibilities.

Job specifications shall include functions and tasks; knowledge; skills; ability; and job-

related personal characteristics, including but not limited to, sensitivity to and understanding of the diverse academic, socioeconomic, cultural, linguistic, disability, and ethnic backgrounds of community college students.

Recruitment

Recruitment for positions shall include verifiable efforts to attract a diverse applicant pool. Recruitment must be conducted actively within and outside of the District work force.

Open recruitment is mandated for all new full-time and part-time positions, except under limited circumstances involving interim hires.

Recruitment must utilize outreach strategies designed to ensure that all qualified individuals are provided the opportunity to seek employment with the District.

Recruitment for administrative and faculty positions (full and part-time) may include advertisement in appropriate professional journals, job registries and newspapers of general circulation; distribution of job announcements to the EEO Registry, K-12 districts, two and four-year colleges, and graduate schools where appropriate candidates might be enrolled; recruitment at conferences, fairs, and professional meetings; notices to institutions and professional organizations.

Recruitment for classified positions shall include notice to all District personnel; notice to Employment Development Department; and advertising in area newspapers of general circulation.

Applicant pool

The application for employment shall afford each applicant an opportunity to identify himself/herself/themselves voluntarily as to gender, ethnicity and, if applicable, his/her/their disability. This information shall be maintained in confidence and shall be used only for research, validation, monitoring, evaluation of the effectiveness of the Plan, or as authorized by law.

After the application deadline has passed, the initial applicant pool shall be recorded and reviewed by the Vice Chancellor, Human Resources or designee. All initial applications shall be screened to determine which candidates satisfy job specifications set forth in the job announcement. The group of candidates who meet the job specifications shall constitute the "qualified applicant pool."

Once the qualified applicant pool is formed, the pool must again be analyzed. If the Vice Chancellor, Human Resources or designee finds that the composition of the qualified applicant pool may have been influenced by factors which are not job related, the District may immediately, and before the selection process continues, consult with legal counsel to determine what, if any, corrective action is required by law.

Screening and Selection

Screening, selecting, and interviewing candidates for all positions shall include thorough and fair procedures that are sensitive to issues of diversity.

~~The Human Resources Department, in consultation with the screening committee chair, shall determine the adequacy of the applicant pool relative to its protected class composition.~~

Each College will maintain a standard procedure for selecting qualified applicants. College procedures must conform to the following:

- Hiring procedures will be provided to the California Community Colleges Chancellor's Office on request.
- Applicants will be screened by the screening committee for minimum qualifications.
- Screening and selection committees shall include a diverse membership that will bring a variety of perspectives to the assessment of applicant qualifications whenever possible; are representative of the District community and campus; include administrators, faculty, and classified staff members; do not include applicants or persons who have written letters of recommendation.
- Screening committees are to be trained by a Human Resources Director or Manager in appropriate selection and interviewing techniques and in Equal Employment Opportunity programs and procedures. The Human Resources Director or Manager assures the sSelection and interviewing process will conform to accepted principles and practices, including preparation of job related questions in advance; maintains notes for all interviews and record relevant factual reasons stating why a candidate was not hired or was not invited to interview; and monitors the hiring process for adverse impact~~these techniques and procedures.~~ The Human Resources Director or Human Resources Manager shall work with the screening committee chair to ensure that the employment process complies with the District's Equal Employment Opportunity Policies.
- A reasonable number of candidates as determined by the College President or designee are to be interviewed for each position.
- Selection shall be based solely on the stated job criteria.
- For faculty and administrative positions, candidates shall be required to demonstrate sensitivity to diversity in ways relevant to the specific position.
- All materials related to the selection process for a position shall be incorporated into a single file and be maintained for at least three (3) years.

If the District determines that a particular monitored group is significantly underrepresented with respect to one or more job categories, the District shall take the following additional steps:

- Review its recruitment procedures:
- Consult with counsel to determine whether there are other, additional measures that

may be undertaken that are required or permitted by law:

- Consider various other means of reducing the underrepresentation which do not involve taking monitored group status into account and implement any such techniques that are feasible:

If significant underrepresentation persists:

- Review each locally-established job qualification to determine if it is job-related and consistent with business necessity:
- Discontinue the use of any non-job-related local qualification:
- Continue using job-related local qualifications if no alternative standard is reasonably available; and
- Consider the implementation of additional measures designed to promote diversity.

Complaint Procedure

Any person may file a complaint alleging the District violated this policy and procedures. Any individuals should file a written complaint with the Vice Chancellor, Human Resources. The District shall process complaints that allege unlawful discrimination according to the procedures set forth in AP 3430 Prohibition of Harassment and AP 3435 Discrimination and Harassment Complaints and Investigations.

~~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.~~

~~When a person brings charges of unlawful discrimination the responsible officer must:~~

- ~~• Undertake efforts to resolve the charge informally;~~
- ~~• Advise the complainant that he/she need not participate in an informal resolution of the complaint;~~
- ~~• Notify the complainant of the procedures for filing a formal complaint;~~
- ~~• Notify the complainant that he/she may file a complaint with the Office of Civil Rights of the U.S. Department of Education.~~
- ~~• If the complainant, a student or an employee, files a formal complaint, the responsible District officer must also forward a copy of the complaint to the California Community Colleges Chancellor's Office.~~

~~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.~~
- ~~• 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 new Title IX grievance process shall apply.~~

Job Announcements

All job announcements shall contain a statement in substantially the following form: The District is an equal opportunity employer. The policy of the District is to encourage applications from persons who are economically disadvantaged and individuals belonging to significantly underrepresented groups within the District's workforce, including ethnic and racial minorities, women, and persons with disabilities. No person shall be denied employment because of ethnicity or race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, marital status, sexual orientation, veteran or military status, or political or organizational affiliation.

Accountability and Corrective Action

The District shall certify annually to the Chancellor of the California Community Colleges that they have timely:

- Recorded, reviewed, and reported the data required regarding qualified applicant pools;*
- Reviewed and updated, as needed, the Strategies Component of the District's EEO Plan; and*
- Investigated and appropriately responded to formal harassment or discrimination*

complaints filed pursuant to subchapter 5 (commencing with Section 59300) of chapter 10 of this division 6 of Title 5.