

TO: BOARD OF TRUSTEES  
FROM: SUPERINTENDENT

INFORMATIVE REPORT NO. 8-2009/10-IR/S

Prepared by the Office of the Superintendent  
for Presentation to the Board of Trustees  
October 12, 2009

SUBJECT: REVISION TO ADMINISTRATIVE PROCEDURES 3435 COMPLAINT  
PROCEDURE FOR DISCRIMINATION OR HARASSMENT, 3530  
WEAPONS ON CAMPUS, 4240 ACADEMIC RENEWAL, 7365  
DISCIPLINE AND DISMISSAL – CLASSIFIED EMPLOYEES AND  
PROPOSED REVISION OF BOARD POLICY 3530 WEAPONS ON  
CAMPUS AND 7365 DISCIPLINE AND DISMISSALS CLASSIFIED  
EMPLOYEES

A. Background

The revision to administrative procedure (AP) 3435 regarding the district's  
discrimination complaint procedure reflects changes in the addresses listed for  
various government agencies.

Board policy (BP) 3530 and AP 3530, AP 4240, and BP and AP 7365 are being  
revised to include updated legal references.

Added language is indicated on the attachments by bold, underlined text, while  
deleted text is indicated by strikethrough. The revised policies will be presented for  
approval at the regular meeting of the Board of Trustees in November.

Respectfully submitted,

Jackie L. Fisher, Sr.  
Superintendent/President

Office of the Superintendent

Informative Report No. 8-2009/10-IR/S

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REVISION TO ADMINISTRATIVE PROCEDURES 3435 COMPLAINT  
PROCEDURE FOR DISCRIMINATION OR HARASSMENT, 3530 WEAPONS ON  
CAMPUS, 4240 ACADEMIC RENEWAL, 7365 DISCIPLINE AND DISMISSAL –  
CLASSIFIED EMPLOYEES AND PROPOSED REVISION OF BOARD POLICY 3530  
WEAPONS ON CAMPUS AND 7365 DISCIPLINE AND DISMISSALS CLASSIFIED  
EMPLOYEES

## AP 3435 Complaint Procedure for Discrimination or Harassment

Reference:

***Education Code Section 66281.5; Government Code 12950.1  
Title 5, Sections 59320, 59324, 59326, 59328, and 59300 et seq.; 34 C.F.R. Section 106.8(b)***

ANTELOPE VALLEY COLLEGE  
COMPLAINT PROCEDURE FOR  
ALLEGATION OF DISCRIMINATION\* OR SEXUAL HARASSMENT  
\*Based on Age, Disability, Race, Religion, Sex  
(Revised 7/1/99, Revised 11/24/03)

### Statement

An employee, student, or other individual who perceives, or has actually experienced conduct that may constitute discrimination or sexual harassment should, if possible, inform the individual engaging in such conduct that the behavior being demonstrated is offensive and must stop.

The complaint shall be filed by one who alleges that he/she has personally suffered unlawful discrimination or by one who has learned of such unlawful discrimination in his/her official capacity.

The complaint shall be filed within one (1) year of the date of the alleged unlawful discrimination or within one (1) year of the date on which the complainant knew or should have known of the facts underlying the allegation of unlawful discrimination.

### Informal

When it is not possible or practical to confront the person directly or if the situation continues, the aggrieved must inform the District's Equal Employment Opportunity Coordinator or designee. The Equal Employment Opportunity Coordinator or designee will hear the complaint, make appropriate notes, and proceed to final resolution informally, and if not possible, proceed to the formal steps in the process by using the established formal complaint procedure. The informal process shall not exceed thirty (30) days from receipt of the complaint.

### Defective Complaint

When a district receives a complaint which it finds does not meet the requirements pursuant to Title 5, the district shall immediately notify the complainant that the complaint does not meet the requirements and shall specify in what requirement the complaint is defective.

### Formal

#### 1. District Investigation

Upon receiving a properly filed complaint, the District will commence an impartial fact-finding investigation of that complaint and notify the complainant and Chancellor that it is doing so. The results of the investigation shall be set forth in a written report which shall include at least all of the following:

- a. a description of the circumstances giving rise to the complaint;

- b. a summary of the testimony provided by each witness, including the complainant and any witnesses identified by the complainant in the complaint;
- c. an analysis of any relevant data or other evidence collected during the course of the investigation;
- d. a specific finding as to whether discrimination did or did not occur with respect to each allegation in the complaint;
- e. any other information deemed appropriate by the district.

### **Defective Complaint**

When a district receives a complaint which it finds does not meet the requirements pursuant to Title 5, the district shall immediately notify the complainant that the complaint does not meet the requirements and shall specify in what requirement the complaint is defective.

### **2. Administrative Determination**

Within ninety (90) days of receiving a complaint, the district shall complete its investigation and forward all of the following to the complainant, the accused, and the Chancellor's office:

- a. a copy or summary of the investigative report;
- b. a written notice setting forth:
  - 1. determination of the Affirmative Action Officer as to whether discrimination did or did not occur with respect to each allegation in the complaint;
  - 2. a description of actions taken, if any, to prevent similar problems from occurring in the future;
  - 3. the proposed resolution of the complaint;
  - 4. the complainant's right to appeal to the district governing board and the Chancellor.

### **3. District Final Decision; Appeals**

If the complainant is not satisfied with the results of the administrative determination, the complainant may, within fifteen (15) days, submit a written appeal to the district governing board. The governing board shall review the original complaint, the investigative report, the administrative determination, and the appeal and issue a final district decision in the matter within forty-five (45) days after receiving the appeal. A copy of the final district decision rendered by the governing board shall be forwarded to the complainant and to the Chancellor. The complainant shall also be notified of his/her right to appeal this decision. If the governing board does not act within forty-five (45) days, the administrative determination shall be deemed approved and shall become the final district decision in the matter.

In any case not involving employment discrimination, the complainant shall file written appeal with the Chancellor within thirty (30) days after the governing board issues the final district decision or permits the administrative determination to become final. Such appeals shall be processed pursuant to the provision of Title 5.

In any case involving an allegation of discrimination on the basis of race, color, national origin, sex, disability or age, in the provision of programs and services provided by the college, a complainant may also file a complaint with U.S. Department of Education. Such

complaints are timely filed if they are filed within 180 days of the alleged discriminatory act or within 60 days of the final determination made in a discrimination complaint filed with the college under its internal procedures.

Complaints may also be filed with the Equal Employment Opportunity Commission or the Department of Fair Employment and Housing. (addresses listed below)

Equal Employment Opportunity Commission  
~~111 North Market Street, Suite 810~~  
~~San Jose CA 95113~~

**Roybal Federal Building**  
**255 E. Temple Street, 4<sup>th</sup> Floor**  
**Los Angeles, CA 90012**  
**<http://www.eeoc.gov>**

Office for Civil Rights (**OCR**)  
United States Department of Education  
~~50 United Nations Plaza, Room 239~~  
~~San Francisco CA 94102~~

**50 Beale Street, Suite 7200**  
**San Francisco, CA 94105**  
**<http://www.ed.gov/offices/OCR>**

Department of Fair Employment and Housing (**DFEH**)  
~~30 Van Ness Avenue, Suite 300~~  
~~San Francisco CA 94102~~

**611 West Sixth Street, Suite 1500**  
**Los Angeles, CA 90017**  
**<http://www.dfeh.ca.gov/default.asp>**

In addition, in such cases, the complainant may file a petition for review with the Chancellor within thirty (30) days after the governing board issues the final district decision or permits the administrative determination to become final. The Chancellor shall have discretion to accept or reject any such petition for review in employment discrimination cases. If the Chancellor agrees to accept the case, he/she may:

- a. attempt to informally resolve the matter;
- b. where applicable, treat the complaint as an allegation that the district has violated the provisions of Title 5 of the California Code of Regulations;
- c. take any other action deemed appropriate by the Chancellor.

**Forward to Chancellor**

Within 150 days of receiving a complaint, the district will forward the following to the Chancellor:

- a. the original complaint;
- b. the report describing the nature and extent of the investigation conducted by the district;

- c. a copy of the notice sent to the complainant (pursuant to Government Code 59336);
- d. a copy of the final district decision rendered by the governing board or a statement indicating the date on which the administrative decision became final
- e. a copy of the notice to the complainant (pursuant to Government Code 59338);
- f. such other information as the Chancellor may require.

**4. Extensions; Failure to Comply**

If a district, for reasons beyond its control, is unable to comply with the 150-day deadline specified for submission of materials to the Chancellor, the district may file a written request that the Chancellor grant an extension of the deadline. The request shall be submitted no later than ten (10) days prior to the expiration of the deadline established and shall set the reasons for the request and the date by which the district expects to be able to submit the required materials.

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

The Chancellor may grant the request unless delay would be prejudicial to the complainant.

If a district fails to comply with the requirements by the required deadline, including any extension granted, the Chancellor may proceed to review the case based on the original complaint and any other relevant information then available.

**4/14/08**

**Revised: October 12, 2009**

## BP 3530 Weapons on Campus

Reference:

***Penal Code Section 626.79 and 626.10***

In reference to California Penal Code Section 626.9, the Antelope Valley Community College District is hereby known as a "Gun Free Zone". Firearms or other weapons shall be prohibited on any college or District center or in any facility of the District except for activities conducted under the direction of District officials or as authorized by an official law enforcement agency.

**See Administrative Procedure #3530**

**Adopted: 11/7/05**

**Revised: November 9, 2009**

## AP 3530 Weapons on Campus

Reference:

**Penal Code Section 626.79 and 626.10**

The Antelope Valley Community College District shall be considered a "Gun Free Zone" in accordance with California Penal Code Section 626.9. The Antelope Valley Community College District shall also be known for a "Zero" tolerance in regards to any weapons violations as stated in California penal Code Section 626.9 and 626.10.

The Antelope Valley Community College District shall consider the following as "Zero" tolerance violations:

Firearms, knives, explosives or other dangerous objects, including but not limited to any facsimile firearm, knife or explosive, are prohibited on any District campus or at any District center, or in any facility of the District.

Activities involving firearms or other weapons conducted under the direction of District officials or as authorized by an official law enforcement agency shall be reported to the Antelope Valley Community College Police Department before taking place.

Any person who believes that he or she may properly possess a firearm or other weapon on campus or in a District center or other facility of the District must promptly notify the Antelope Valley Community College Police Department.

Bringing or possessing any dirk, dagger, ice pick, or knife having a fixed blade longer than 2 1/2 inches upon the grounds, unless the person is authorized to possess such a weapon in the course of his or 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 or her duties.

**11/7/05**

**Revised: October 12, 2009**

## AP 4240 Academic Renewal

Reference:

**Title 5, Section 55044 and 55046**

Academic renewal regulations “forgive” substandard grades earned based on the fact that the grades are no longer reflective of a student’s present ability and level of performance.

Students may petition to have their academic record reviewed for academic renewal of substandard academic performance under the following conditions:

Students must have achieved a grade point average of:

12 semester units with at least a 3.0; or

18 semester units with at least a 2.5; or

24 semester units with at least a 2.0;

and

At least 24 months must have elapsed from the time the course work to be removed was completed.

Subsequent coursework may include coursework completed at other colleges/ universities upon submission of an official transcript.

Up to 30 units of course work may be eliminated from consideration in the cumulative grade point average.

Coursework must be consecutive to qualify for academic renewal.

Only “D” and “F” grades may be eliminated from the computation of the GPA under the academic renewal policy.

Specific courses and/or categories of courses that are exempt from academic renewal must be described. Academic renewal actions are irreversible. When academic renewal procedures permit previously recorded substandard coursework to be disregarded in the computation of a student’s grade point average, the student’s permanent academic record should contain an accurate record of all coursework to ensure a complete academic history.

Academic renewal procedures may not conflict with the District’s obligation to retain and destroy records or with the instructor’s ability to determine a student’s final grade.

A student must complete a Request for Academic Renewal in the Admissions & Records Office for consideration.

The Admissions & Records Office is the designated authority for the academic renewal process.

No course will be removed from a student’s academic record in the process of academic renewal.

Attachment  
Office of the Superintendent  
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Should a student transfer to another college, most colleges and universities will not accept another institution's academic forgiveness policies and will interpret and use coursework and grades as applied to their own unique policies and procedures.

**2/6/06**

**Revised: 4/14/08**

**Revised: 1/12/09**

**Revised: October 12, 2009**

## BP 7365 Discipline and Dismissals - Classified Employees

Reference:

***Education Code Section 88013; Government Code Sections 3300 et seq.***

The Superintendent/President shall enact procedures for the disciplinary proceedings applicable to permanent classified employees of the District. Such procedures shall conform to the requirements of the Education Code.

The Board's determination of the sufficiency of the cause for disciplinary action of a classified employee shall be conclusive.

No disciplinary action shall be taken for any cause that arose prior to the employee becoming permanent, or for any cause that arise more than two years preceding the date of the filing of any charge against the employee, unless the cause was concealed or not disclosed by the employee when it could be reasonably assumed that the employee should have disclosed the facts to the District.

A permanent member of the classified service shall be subject to disciplinary action, including, but not limited to, oral reprimand, written reprimand, reduction in pay, demotion, suspension, or discharge, for any of the grounds set forth in Article IX of the classified bargaining agreement.

The effective date of the dismissal of a classified employee shall be the date on which the Board of Trustees makes a decision unless otherwise specified in the decision.

Probationary employees may be dismissed at the direction of the Board at any time during the probationary period. Upon request, the probationer shall be provided with a reason for dismissal or non-retention. Probationary employees are not entitled to a hearing afforded permanent employees.

**See Administrative Procedure #7365**

**Adopted: 5/8/06**

**Revised: November 9, 2009**

## AP 7365 Discipline and Dismissal - Classified Employees

Reference:

**Education Code Section 88013; Government Code Sections 3300 et seq.**

### Progressive Employee Discipline

Unit members who have violated a rule or regulation prescribed by the Board in Board Policy 7365 shall be subject to appropriate disciplinary action. Disciplinary action shall conform to established principles of progressive discipline as listed below. (Refer to Article IX of the current *Antelope Valley College Federation of Classified Employees Collective Bargaining Agreement*)

#### Informal Conference

Refer to Article IX of the current *Antelope Valley College Federation of Classified Employees Collective Bargaining Agreement*

#### Written Reprimand

Refer to Article IX of the current *Antelope Valley College Federation of Classified Employees Collective Bargaining Agreement*

#### Conferences, Directives, and Further Reprimands

Refer to Article IX of the current *Antelope Valley College Federation of Classified Employees Collective Bargaining Agreement*

#### Documentation Review/Recommendation

Refer to Article IX of the current *Antelope Valley College Federation of Classified Employees Collective Bargaining Agreement*

### Suspension

Refer to Article IX of the current *Antelope Valley College Federation of Classified Employees Collective Bargaining Agreement*.

### Demotion

Refer to Article IX of the current *Antelope Valley College Federation of Classified Employees Collective Bargaining Agreement*.

### Dismissal

#### Cause (EC 88013)

Refer to Article IX of the current *Antelope Valley College Federation of Classified Employees Collective Bargaining Agreement*.

#### Notice of Disciplinary Action (EC 88016)

Refer to Article IX of the current *Antelope Valley College Federation of Classified Employees Collective Bargaining Agreement*

#### Dismissal Procedures for Permanent Employees (EC 88013)

Refer to Article IX of the current *Antelope Valley College Federation of Classified Employees Collective Bargaining Agreement*.

Effective Date - Classified Employee Dismissal

The effective date of the dismissal of a classified employee shall be the date on which the Board of Trustees makes a decision unless otherwise specified in the decision. (Refer to Article IX of the current *Antelope Valley College Federation of Classified Employees Collective Bargaining Agreement*)

Dismissal Procedures for Probationary Employees

Refer to Article IX of the current *Antelope Valley College Federation of Classified Employees Collective Bargaining Agreement*.

Judicial Review - Classified Employee Dismissal

Judicial Review may be had by filing a petition for writ of mandate in accordance with the provisions of the Code of Civil Procedure. Any such petition shall be filed within 30 days after the effective date of the decision or the last day on which reconsideration can be ordered. The right to petition shall not be affected by the failure to seek reconsideration before the Board of Trustees.

The complete record of the proceedings, if one has been made, or such parts thereof as are designated by the petitioner, shall be prepared by the District and shall be delivered to petitioner, within 30 days after a request therefore by him/her, upon the payment of the fee specified in Section 69950 of the Government Code as now or hereinafter amended for the transcript, the cost of preparation of other portions of the record and for certification thereof. The complete record includes the pleadings, all notices, and orders issued by the District or Board of Trustees, the final decision, a transcript of all proceedings, if made, the exhibits admitted or rejected, the written evidence and any other papers in the case.

Reconsideration - Classified Employee Dismissal

The Board of Trustees itself may order a reconsideration of all or part of the case on its own motion or on petition of the affected party, if at the time of final decision the Board has specified that reconsideration is available to the parties.

The power to order a reconsideration shall expire thirty days after the effective date of the decision. If no action is taken on a petition within the time allowed for ordering reconsideration, the petition shall be deemed denied.

The case may be reconsidered by the Board of Trustees on all the pertinent parts of the record and such additional evidence and argument as may be permitted.

**4/14/08**

**Revised: October 12, 2009**