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| <h1 style="margin: 0;">College Coordinating Council Meeting</h1> | July 25, 2024 9:30 a.m. – 10:30 a.m. L201 |
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Type of Meeting: Regular
Note Taker: Patty McClure
Please Review/Bring: Agenda, Minutes

Committee Members:
 Hal Huntsman, Academic Senate
 Steve Benitez or Renelyn Wilson, ASO
 Pamela Ford, Classified Union
 Ashley Hawkins, Confidential/Management/Supervisory/Administrators
 Kathryn Mitchell, Deans
 Dr. Jason Bowen, Faculty Union

Dr. Jennifer Zellet, CHAIR
 Shami Brar, Vice President of Administrative Services
 Bridget Cook, General Counsel
 Dr. Kathy Bakhit, Vice President of Academic Affairs
 Dr. Lauren Elan Helsper, Vice President of Human Resources
 Idania Padron, Vice President of Student Services

MEETING

| Items | Person(s) Responsible | Time | Action |
|-------|-----------------------|------|--------|
|-------|-----------------------|------|--------|

APPROVAL OF AGENDA AND MINUTES:

I.

RETURNING ITEMS:

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| I. | | | |
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DISCUSSION/ACTION ITEMS:

| | | | |
|--------------------------|--------|---------------|--|
| Title IX Policies | | | |
| I. AP 3430 | Lauren | 50 minutes | |
| II. BP/AP 3433 | | | |
| III. AP 3434 | | | |
| IV. AP 3435 | | | |
| V. AP 3540 | | | |

STANDING ITEMS:

| | | | |
|-------------------------|-----|---------------|--|
| I. Constituents Reports | All | 10 minutes | |
|-------------------------|-----|---------------|--|

POLICIES OUT FOR CONSTITUENT REVIEW:

I.

POLICIES IN PROCESS

I. BP/AP 2510 – Participation in Local Decision Making – Hal/Meeta

- II. BP/AP 4010 – Academic Calendar
- III. Decision-Making Principle Document – Jennifer
- IV. BP/AP 4010 – Academic Calendar – Kathy
- V. BP/AP 4100 – Graduation Requirement – Idania
- VI. BP/AP 4400 – Community Services – Kathy
- VII. BP/AP 7130 – Compensation – Shami & Legal
- VIII. BP/AP 7800 – Emeritus Status (NEW) – Jennifer/Hal

NEXT MEETING DATE: August 28, 2024



AP 3430 Prohibition of Harassment

References:

Education Code Section 212.5, 44100, 66281.5, and 66281.8;
Government Code Sections 12940 and 12923;
Civil Code Section 51.9;
Title 2 Sections 10500 et seq.;
Title 5 Sections 59320 et seq.;
Title VII of the Civil Rights Act of 1964 42 U.S. Code Annotated Section 2000e

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

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

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

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 a reasonable person with the same characteristics as the victim of the harassing conduct would be adversely affected to a degree that interferes with his/ her/their ability to participate in or to realize the intended benefits of an institutional activity, employment, or resource.

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

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

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

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

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

Environmental: A hostile academic or work environment may exist where it is permeated by sexual innuendo; insults or abusive comments directed at an individual or group based on gender, race, nationality, sexual orientation or other protected status; or gratuitous comments regarding gender, race, sexual

orientation, or other protected status that are not relevant to the subject matter of the class or activities on the job. A hostile environment can arise from an unwarranted focus on sexual topics or sexually suggestive statements in the classroom or work environment. It can also be created by an unwarranted focus on, or stereotyping of, particular racial or ethnic groups, sexual orientations, genders or other protected statuses. An environment may also be hostile toward anyone who merely witnesses unlawful harassment in his/her/their immediate surroundings, although the conduct is directed at others. The determination of whether an environment is hostile is based on the totality of the circumstances, including such factors as the frequency of the conduct, the severity of the conduct, whether the conduct is humiliating or physically threatening, and whether the conduct unreasonably interferes with an individual's learning or work.

Sexual Harassment: In addition to the above, sexual harassment consists of unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature made by someone from, or in, the work or educational setting when:

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

This definition encompasses two (2) 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 alters the conditions of an individual's learning or work environment, unreasonably interfere with an individual's academic or work performance, or creates an intimidating, hostile, or abusive learning or work environment. The victim must

subjectively perceive the environment as hostile, and the harassment must be such that a reasonable person of the same gender would perceive the environment as hostile. A single or isolated incident of sexual harassment may be sufficient to create a hostile environment if it unreasonably interfered with the person's academic or work performance or created an intimidating, hostile, or offensive learning or working environment.

Sexually harassing conduct can occur between people of the same or different genders. 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 members or staff members and students are discouraged. There is an inherent imbalance of power and potential for exploitation in such relationships. A conflict of interest may arise if the administrator, faculty members, 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 antidiscrimination laws.

Also see BP 3430 Prohibition of Harassment, BP/AP 3410 Nondiscrimination, BP/AP 3420 Equal Employment Opportunity, BP/AP 3433 Prohibition of Sexual Harassment Under Title IX, AP 3434 Responding to Harassment Based on Sex Under Title IX, and AP 3435 Discrimination and Harassment Complaints and Investigations.

Approved: 11/7/05

Revised: 8/13/12
Revised: 5/9/16
Revised: 5/13/19
Revised: 11/12/19
Revised: 6/12/23
Revised: 7/2024



BP 3433 Prohibition

References:

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

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

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

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

The District requires supervisors to report all incidents of harassment and retaliation that come to their attention.

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

To this end, the Superintendent/President shall ensure that the institution undertakes education and training activities to counter ~~sexual harassment~~ **sex discrimination** and to prevent, minimize, or eliminate any ~~hostile environment~~ **sex discrimination including sex-based harassment** that impairs access to equal education opportunity or impacts the terms and conditions of employment.

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

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

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

For non-Title IX matters, also see BP 3410 Nondiscrimination, BP/AP 3420 Equal Employment Opportunity, BP/AP 3430 Prohibition of Harassment, AP 3435 Discrimination and Harassment Complaints and Investigations.

Adopted: 7/10/23

Revised: 7/2024



AP 3433 Prohibition of ~~Sexual Harassment~~ Sex Discrimination under Title IX

References:

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

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

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

Definitions

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

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

- Quid pro quo harassment. A District employee, agent, or other person authorized by the District to provide ~~conditions the provision of~~ an aid, benefit, or service under ~~of~~ the District's education program or activity explicitly or impliedly condition the provision of such an aid, benefit, or service ~~on an individual's~~ on a person's participation in unwelcome sexual conduct (~~quid pro quo harassment~~)
- Hostile environment harassment. Unwelcome sex-based conduct that, based on a totality of the circumstances, is subjectively and objectively and is ~~determined~~

~~by a reasonable person to be~~ so severe, or pervasive that it limited or denies a person's ability to participate in or benefit from, ~~and objectively offensive that it effectively denies a person equal access to~~ the District's education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

- The degree to which the conduct affected the Complainant's ability to access the District's education program or activity;
 - The type, frequency, and duration of the conduct;
 - The parties' ages, roles within the District's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluation the effects of the conduct;
 - The location of the conduct and the context in which the conduct occurred; and
 - Other sex-based harassment in the District's education program or activity.
- Sexual assault, including the following:
 - **Sex Offenses.** Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.
 - **Rape** (except Statutory Rape). The carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their age or because of his/her/their temporary or permanent mental or physical incapacity. There is carnal knowledge if there is the slightest penetration of the genital or anal opening of the body of another person.
 - **Statutory Rape.** Sexual intercourse with a person who is under statutory age of consent. There is no force or coercion used in Statutory Rape; the act is not an attack.
 - ~~Sodomy. Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their age or because of his/her/their temporary or permanent mental or physical incapacity.~~
 - **Sexual Assault with an Object.** To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their age or because of his/her/their temporary or permanent mental or physical incapacity. An "object" or "instrument" is anything the offender uses other than the offender's genitalia, e.g., a finger, bottle, handgun, stick.
 - **Fondling.** The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of

his/her/their age or because of his/her/their temporary or permanent mental or physical incapacity.

- ~~Sex Offenses, Non-Forcible Unlawful, Non-Forcible Sexual Intercourse.~~
- **Incest.** Non-Forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- ~~**Statutory Rape— Non-Forcible. Sexual intercourse with a person who is under the statutory age of consent. There is no force or coercion used in Statutory Rape; the act is not an attack.**~~
- **Dating violence.** Violence against a person who is or has been in a social relationship of a romantic or intimate nature with the victim, ~~and where the~~ **The** existence of a relationship will be determined based on a consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
- **Domestic Violence.** Violence committed:
 - By a current or former spouse or intimate partner of the victim;
 - By a person with whom the victim shares a child in common;
 - By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
 - By a person similarly situated to a spouse of the victim under the domestic or family violence laws of California; or
 - By any other person against an adult or youth victim protected from that person's acts under the domestic or family violence laws of California. O
- **Stalking.** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his/her/their safety or the safety of others or suffer substantial emotional distress.

For non-Title IX matters, also see BP 3410 Nondiscrimination, BP/AP 3420 Equal Employment Opportunity, BP/AP 3430 Prohibition of Harassment, AP 3435 Discrimination and Harassment Complaints and Investigations.

Adopted 6/12/23

Revised: 7/2024



AP 3434 Responding to ~~Harassment Based on Sex~~ **Discrimination** under Title IX

References:

~~Education Code Sections 67380 et seq.;~~

34 Code of Federal Regulations Parts 106.1 et seq.;

20 U.S. Code Sections 1681 et seq.

~~Education Code Sections 212.5, 66262.5, 66281.8, and 67380 et seq.~~

Introduction

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

Title IX Coordinator

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

The District's Title IX Coordinator ~~are~~ **is** the:

Assistant Superintendent/Vice President ~~Human Resources~~ **People, Culture, and Talent**, or designee ~~—staff and the Title IX Coordinator's contact information is:~~

3041 West Avenue K

Lancaster, CA 93536

661/722-63011

titleix@avc.edu

~~Assistant Superintendent/Vice President Student Services, or designee—
students 3041 West Avenue K~~

~~Lancaster, CA 93536~~

~~661/722-6300~~

~~StudentTitleIX@avc.edu~~

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

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

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

~~These Title IX sexual harassment procedures and the related policy protect students, employees, applicants for employment, and applicants for admission. The investigation and adjudication of alleged sexual harassment under this procedure is not an adversarial process between the Complainant, the Respondent, and the witnesses, but rather a process for the District to comply with its obligations under existing law. The Complainant does not have the burden to prove, nor does the Respondent have the burden to disprove, the underlying allegation or allegations of misconduct.~~

Jurisdictional Requirements – Application of Procedures

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

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

Definitions

Advisor: Throughout the grievance process, both the Complainant and Respondent have a right to an Advisor of their choice. ~~If a Party does not have an Advisor at the time of the hearing, the District must provide the Party an Advisor of the District’s~~

~~choice, free of charge.~~ The District may establish restrictions regarding the extent to which the Advisor may participate in the proceedings as long as the restrictions apply equally to both Parties.

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

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

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

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

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

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

- o unable to communicate due to a mental or physical condition.

Decision-Maker: District designee(s) or external agency(ies) ~~Designees from student services, academic affairs, human resources, or external agencies who will question the parties and witnesses, conduct a live hearing (if offered) oversee the live hearing and make a determination of whether sex discrimination occurred. responsibility. The District may have one Decision-Maker determine whether the Respondent is responsible for sex discrimination, and another Decision-Maker determine the appropriate level of disciplinary sanctions for the conduct. The Decision-Maker cannot be the Title IX Coordinator or the investigator.~~

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

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

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

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

Remedies: Measures provided, as appropriate, to a Complainant or any other person the District identifies as having had their equal access to the District's education program or activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person's access to the District's education program or activity after the District determines that sex discrimination occurred.

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

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

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

- Quid pro quo harassment. An employee, agent, or other person authorized by the A District ~~employee conditions the provision to provide of~~ an aid, benefit, or service ~~of the~~ under the District's education program or activity explicitly or impliedly condition the provision of such an aid, benefit, or service on ~~an individual's~~ a person's participation in unwelcome sexual conduct (~~quid pro quo harassment~~);
- Hostile environment harassment. Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is ~~determined by a reasonable person to be~~ so severe, pervasive, ~~and objectively offensive that it effectively denies a person equal access to~~ that it limits or denies a person's ability to participate in or benefit from the District's education program or activity (*i.e.* creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
 - - The degree to which the conduct affected the Complainant's ability to access the District's education program or activity;
 - The type, frequenc~~t~~, and duration of the conduct;
 - The parties' ages, roles within the District's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
 - The location of the conduct and the context in which the conduct occurred; and
 - Other sex-based harassment in the District's education program or activity;
 - Sexual assault, including the following:
 - - **Sex Offenses:** Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent. **Sex offenses include sexual exploitation.**
 - **Rape** (except Statutory Rape): The carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their temporary or permanent mental or physical incapacity. There is carnal knowledge if there is the slightest penetration of the genital or anal opening of the body of another person.

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

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

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

Grievance Procedures for Complaints of Sex Discrimination under Title IX

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

Who May File a Complaint:

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

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

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

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

Consolidation of Complaints

The District may consolidate Complaints of sex discrimination against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations of sex discrimination arise out of the

same facts or circumstances. When more than one complainant or more than one respondent is involved, references below to a party, complainant, or respondent include the plural, as applicable.

Removal of Respondent Pending Final Determination

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

Emergency Removal

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

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

The District's Title IX Coordinator in consultation with the Threat Assessment Team, and/or Behavioral Intervention Team (BIT), or designee will conduct the individualized safety and risk analysis.

If the Title IX Coordinator in consultation with the Threat Assessment Team, and/or Behavioral Intervention Team (BIT), or designee determines emergency removal is appropriate, ~~he/she/they or a~~ designee will provide the person the District is removing from campus on an emergency basis with a notice and opportunity to attend a meeting and challenge the basis of his/her/their removal. The Title IX Coordinator in consultation with the Threat Assessment Team, and/or Behavioral Intervention (BIT), or designee will determine whether the emergency removal from campus order is warranted after considering information provided by the Respondent challenging the emergency removal.

Administrative Leave

The District may place a non-student employee Respondent on administrative leave during the grievance process below.

Reporting Options

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

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

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

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

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

~~District Employees and Officials with Authority~~

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

~~The District has designated the following employees as Officials with Authority:~~

- ~~President~~
- ~~General Counsel~~
- ~~Vice Presidents~~
- ~~Deans~~
- ~~Associate Deans~~
- ~~Executive Directors~~
- ~~Directors~~
- ~~Managers~~
- ~~Supervisors~~

Coaches

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

~~Intake and Processing of Report~~

~~Receipt of Report~~

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

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

- The District will treat complainants and respondents equitably.
- The District requires that any Title IX Coordinator, investigator, or decision-maker not have a conflict of interest or bias for or against complainants or respondents generally or an individual Complainant or Respondent. As long as there is no conflict of interest or bias, a decision-maker may be the same person as the Title IX Coordinator or investigator.
- The District presumes that the Respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of its grievance procedures.

Timeframes and Extensions for Reporting

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

- **Complaint evaluation:** The District will promptly determine whether to dismiss or investigate a Complaint within fourteen (14) **business days**^[LE1].
- **Complaint investigation:** The District will complete an adequate, reliable, and impartial investigation of Complaints within **240 calendar days**.
- **Questioning the Parties and Witnesses:** The District will complete the process that enables the Decision-Maker to question the Parties and Witnesses no later than **60 calendar days**^[LE2] after the date that the investigation concludes.
- **Determination Whether Sex Discrimination Occurred:** The District will issue a written determination whether sex discrimination occurred no later than **45 business days** after the date that the Decision-Maker completes the process that enables the Decision-Maker to question the Parties and Witnesses.

- **Appeal** (if any): A Complainant or Respondent may submit a written appeal no later than **10 business days** from the date of the notice of determination whether sex discrimination occurred or from the date of the District's notice of dismissal of a Complaint or any allegations. If a Complainant or Respondent submits an appeal to the District, the District will notify the other Party in writing within **5 business days**^[LE3] days of receiving a Party's appeal and allow the non-appealing Parties at least **10 business days**^[LE4] days from the date of receipt of the appeal to submit a written statement in support of, or challenging, the outcome. If a Complainant or Respondent submits an appeal to the District, the District will notify the other Party in writing within **10 business days** of receiving a Party's appeal and allow the non-appealing Parties at least **15 business days** from the date of receipt of the appeal to submit a written statement in support of, or challenging, the outcome. The appeal Decision-Maker will issue a written decision on whether to grant or deny the appeal, and the rationale for the decision, within **45 calendar days** days after the Decision-Maker on appeal receives the response to the appeal or the last day to provide a response.

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

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

Privacy

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

Evidence

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

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

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

Timeframe for Reporting

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

Supportive Measures

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

~~housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.~~

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

~~Sexual Assault and Domestic Violence Counselors~~

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

~~Removal of Respondent Pending Final Determination~~

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

~~Emergency Removal~~

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

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

~~The District's [**designate position**] or designee will conduct the individualized safety and risk analysis.~~

~~If the [**designate position**] determines emergency removal is appropriate, he/she/they or designee will provide the person the District is removing from campus on an emergency basis with a notice and opportunity to attend a meeting and challenge the basis of his/her/their removal. The [**designate position**] or designee will determine~~

~~whether the emergency removal from campus order is warranted after considering information provided by the Respondent challenging the emergency removal.~~

~~Administrative Leave~~

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

~~Formal Complaint Grievance Process~~

~~Written Notice to Parties of Allegations~~

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

- ~~• Notice of tThe District's Title IX grievance process and any informal resolution process];~~
- ~~• Notice of the allegations of alleged sexual harassment with sufficient details known at the time and with sufficient time to prepare a response before any initial interview;~~
- ~~• Statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;~~
- ~~• Notice that the Parties may have Advisor of their choice, who may be, but is not required to be, an attorney;~~
- ~~• Notice that the Parties may inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including the evidence upon which the District does not intend to rely in reaching a determination regarding responsibility, and inculpatory or exculpatory evidence whether obtained from a Party or other source;~~
- ~~• Inform the Parties of any provision in the District's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process. Sufficient information available at the time to allow the Parties to respond to the allegations, including the identities of the Parties involved in the incident(s), the conduct alleged to constitute sex discrimination, and the date(s) and location(s) of the alleged incident(s);~~
- ~~• Retaliation is prohibited; and~~
- ~~• For student Parties, notice regarding appropriate counseling resources the District has developed and maintains.~~
- ~~• The Parties are entitled to an equal opportunity to access the relevant and otherwise permissible evidence.~~
- ~~• Notice of the District's policies regarding knowingly making false statements or knowingly submitting false information during the grievance procedures. AP 3050 – Institutional Code of Ethics (for employees) and BP/AP 5500 – Standards of Conduct (for students).~~

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

Dismissal of ~~Formal a~~ Complaint

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

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

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

- ~~• If at any time during the investigation or hearing: a Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations;~~
- ~~• If the Respondent is no longer enrolled or employed by the District; or~~
- ~~• If there are specific circumstances that prevent the District from gathering evidence sufficient to reach a determination regarding responsibility as to the formal complaint or allegations.~~

The District may dismiss a Complaint of sex discrimination if:

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

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

The District may commence proceedings under other policies and procedures after dismissing a **formal eComplaint**.

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

Appeal of Dismissal of Complaint

A Complainant or Respondent may appeal the dismissal of a Complaint or any allegations on the following bases no later than **10 business days** from the date of the District's notice of dismissal of a Complaint or any allegations:

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

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

- Notify the Parties of any appeal within **5 business days** of receiving the Complainant's appeal, including notice of the allegations, if notice was not previously provided to the Respondent;
- Allow the Respondent at least **10 business days** from the date of receipt of the appeal to submit a written statement in support of, or challenging, the outcome;
- Implement appeal procedures equally for the Parties;
- Ensure that the Decision-Maker for the appeal did not take part in an investigation of the allegations or dismissal of the Complaint;
- Ensure that the Decision-Maker for the appeal has been trained consistent with the Title IX regulations; and
- Notify the Parties of the result of the appeal and the rationale for the result within **45 calendar days** after the Decision-Maker on appeal receives the response to the appeal or the last day to provide a response.

If a Complaint is dismissed, the District will:

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

~~Consolidation of Formal Complaints~~

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

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

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

~~Bias or Conflict of Interest~~

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

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

Timeline for Completion

~~The District will undertake its grievance process promptly and as swiftly as possible. The District will complete the investigation and its determination regarding responsibility or the informal resolution process within 240 calendar days.~~

~~When appropriate, the Title IX Coordinator may determine that good cause exists to extend the 240 calendar day period to conduct a fair and complete investigation, to accommodate an investigation by law enforcement, to accommodate the unavailability of witnesses or delays by the Parties, to account for District breaks or vacations, or due to the complexity of the investigation. The District will provide notice of this extension to the Complainant and Respondent in writing and include the reason for the delay and anticipated timing of completion. A Party may request an extension from the Title IX Coordinator in writing by explaining the reason for the delay and the length of the continuance requested. The Title IX Coordinator will notify the Parties and document the grant or denial of a request for extension or delay as part of the case recordkeeping. The District shall grant a student Party's reasonable request for an extension of a deadline related to a Complaint during periods of examinations or school closures.~~

Role of Advisor

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

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

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

Confidentiality Agreements

To protect the privacy of those involved, the Parties and Advisors are required to sign a confidentiality agreement prior to attending an interview or otherwise participating in the District's grievance process. The confidentiality agreement restricts ~~dissemination of any of the evidence subject to inspection and review or use of this evidence for any purpose unrelated to the Title IX grievance process~~ unauthorized disclosure of information and evidence obtained solely through the grievance procedure. The confidentiality agreement will not restrict the ability of either Party to discuss the allegations under investigation.

Use of Privileged Information

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

~~Student Complainant Requests for Confidentiality~~

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

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

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

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

Investigations

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

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

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

Burden of Gathering Evidence

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

Opportunity to Present Witnesses and Evidence

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

Evidence

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

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

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

Trained Investigators

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

Burden of Gathering Evidence

~~The District, not the Parties, has the responsibility to gather information and interview witnesses. As part of the District's burden of gathering evidence, the District's~~

~~investigator will create an investigative report that fairly summarizes relevant evidence, whether it is inculpatory or exculpatory. The investigator shall not make findings or determinations of law or fact.~~

Student Complainants should be aware that any evidence available but not disclosed during the investigation might not be considered at a subsequent hearing, if a hearing is required under this procedure. ~~Written evidence submitted by a Party is limited to 20 pages or 5,000 words.~~ Written evidence submitted by a Party is limited to a maximum of twenty (20) pages or 10,000 words.

Evidence of Past Sexual History

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

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

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

~~Notice of Investigative Interview~~

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

Evidence Review

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

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

Investigative Report

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

- A description of the circumstances giving rise to the **formal** eComplaint;
- A description of the procedural steps taken during the investigation, including all individuals contacted and interviewed;
- A summary of the testimony of each witness the investigator interviewed;
- ~~An analysis of relevant evidence collected during the investigation, including a list of relevant documents~~ A description of all evidence gathered through the investigation;
- A table of contents if the report exceeds ten pages; and
- Any other information deemed appropriate by the District.

The investigator will not make a determination regarding responsibility.

~~The investigator may redact information not e related to the allegations or privileged information. However, the investigator will keep a log of information he/she/they does not produce to the Parties. The investigator will provide this log only to the Title IX Coordinator. The Title IX Coordinator will not disclose the log to the Parties but will maintain the log in the Title IX Coordinator's file, in the event it later becomes relevant. At least ten days prior to a hearing, the District will send the investigative report to each Party and their Advisors, if any, the investigative report in an electronic format or a hard copy, for review and written response. The Parties will have at least ten days to submit a written response.~~

Hearing

~~After completing an investigation and prior to completing a determination regarding responsibility, the District will hold a live hearing to provide the Complainant and Respondent an opportunity to respond to the evidence gathered before a Decision-Maker. Neither Party may choose to waive the right to a live hearing, but the Parties~~

~~can choose whether to participate in the hearing or answer some or all cross-examination questions.~~

Notice

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

Hearing Format

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

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

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

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

Decision-Maker

~~The Decision-Maker will be free from conflict of interest or bias, including bias for or against Complainants or Respondents.~~

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

Presenting Witnesses

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

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

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

~~Cross-Examination~~

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

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

~~If a Party or witness disagrees with a relevance determination, that individual has the choice of either (1) abiding by the Decision-Maker's determination and answering the question or (2) refusing to answer the question. If a Party or witness does not submit to cross-examination at the live hearing, the Decision-Maker may admit any statement of that Party or witness in reaching a determination regarding responsibility. The Decision-Maker will give the statements whatever weight the Decision-Maker determines appropriate, bearing in mind that the statements have not been tested by cross-examination. In doing so, the Decision-Maker should consider, and if possible determine, whether the witness or Party made the statement and what the statement proves.~~

~~The Decision-Maker cannot draw an inference about the determination of responsibility based solely on a Party's or witness's absence from the live hearing or refusal to submit to cross-examination or to answer any question. The Decision-Maker may also ask any Party or witness questions. If a Party or witness refuses to respond to a Decision-Maker's questions, the Decision-Maker is not precluded from relying on that Party or witness' statements.~~

Questioning the Parties and Witnesses

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

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

Determinations of Responsibility Whether Sex Discrimination Occurred

~~When the Decision-Maker makes a determination of responsibility or non-responsibility, the Decision-Maker will issue a written determination regarding responsibility, no later than 45 business days after the date that the hearing ends.~~

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

~~The written determination will include:~~

- ~~• Identification of the allegations potentially constituting Title IX sexual harassment as defined in these procedures;~~
- ~~• A description of the procedural steps taken from the receipt of the formal complaint through the determination, including who conducted the investigation and gave notifications to the Parties. The determination will also state when, where, and the date the investigator interviewed the Parties and witnesses, conducted site visits, the methods used to gather other evidence. The procedural section should also discuss the dates and how the Parties were provided the opportunity to review and inspect evidence and the date of any hearings held and who attended the hearing;~~
- ~~• Findings of fact supporting the determination. In making these findings, the Decision-Maker will focus on analyzing the findings of fact that support the determination of responsibility or non-responsibility;~~

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

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

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

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

including notification to the Complainant of any such disciplinary sanctions; and,

- Take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the District's education program or activity.

- Comply with the grievance procedures before the imposition of any disciplinary sanctions against the Respondent; and

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

Appeal of Determinations

The District offers the following process for appeals from a determination whether sex discrimination occurred. A Party may appeal the determination whether sex discrimination occurred on the following bases no later than **10 business days** from the date of the District's notice of determination whether sex discrimination occurred:

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

If a Party appeals the determination whether sex discrimination occurred, the **District will**.^[LE5]

- Notify the Parties of any appeal within **5 business days** of receiving the Party's appeal;
- Allow the non-appealing Party at least **10 business days** from the date of receipt of the appeal to submit a written statement in support of, or challenging, the determination;
- Implement appeal procedures equally for the Parties;
- Ensure that the Decision-Maker for the appeal did not take part in an investigation of the allegations or dismissal of the Complaint;
- Ensure that the Decision-Maker for the appeal has been trained consistent with the Title IX regulations; and
- Notify the Parties of the result of the appeal and the rationale for the result within **45 calendar days** after the Decision-Maker on appeal receives the response to the appeal or the last day to provide a response.]

~~Disciplinary Sanctions and Remedies~~

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

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

- ~~● Providing an escort to ensure that the Complainant can move safely between classes and activities;~~
- ~~● Ensuring that the Complainant and Respondent do not attend the same classes or work in the same work area;~~
- ~~● Providing counseling services or a referral to counseling services;~~
- ~~● Providing medical services or a referral to medical services;~~
- ~~● Providing academic support services, such as tutoring;~~
- ~~● Arranging for a Complainant, if a student, to re-take a course or withdraw from a class without penalty, including ensuring that any changes do not adversely affect the Complainant's academic record; and~~
- ~~● Reviewing any disciplinary actions taken against the Complainant to see if there is a causal connection between the harassment and the misconduct that may have resulted in the Complainant's discipline.~~

~~Possible disciplinary sanctions for student Respondents include written or verbal reprimand, required training or counseling, non-academic probation, suspension, and expulsion. Possible disciplinary sanctions for employee Respondents include written or verbal reprimand, required training or counseling, reduction in pay, demotion, suspension, or discharge.~~

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

~~A Complainant or Respondent may appeal the District's determination regarding responsibility or the dismissal of a formal complaint or any allegations. A Complainant or Respondent must submit a written appeal within 10 business days from the date of the notice of determination regarding responsibility or from the date of the District's notice of dismissal of a formal complaint or any allegations.~~

~~**Grounds for Appeal**~~

~~The Superintendent/President or designee will serve as the Decision-Maker on Appeal. In filing an appeal of the District's determination regarding responsibility or the District's dismissal of a formal complaint, the Party must state the grounds for appeal and a statement of facts supporting those grounds. The grounds for appeal are as follows:~~

- ~~● A procedural irregularity affected the outcome;~~

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

Appeal Procedure

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

- ~~Notify the other Party in writing within 10 business days days of receiving a Party's appeal;~~
- ~~Allow the non-appealing Parties at least 15 business days days from the date of receipt of the appeal to submit a written statement in support of, or challenging, the outcome;~~

~~The appeal Decision Maker will issue a written decision on whether to grant or deny the appeal, and the rationale for the decision, within 45 business days after the Decision Maker on appeal receives the response to the appeal or the last day to provide a response. The District will provide the written decision simultaneously to both Parties. The Decision Maker on appeal may extend or otherwise modify the deadlines provided above. Either Party may seek an extension by submitting a written request to the appeal Decision Maker explaining the need for the extension and the proposed length of the extension. The Decision Maker will respond to the request within 48 hours in writing and will inform the Parties simultaneously whether the extension is granted.~~

Informal Resolution

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

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

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

~~The informal resolution process is not available to resolve allegations that an employee sexually harassed a student or any allegations of sexual assault.~~

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

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

Supportive Measures

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

Disciplinary Sanctions and Remedies

~~The District must have completed the grievance procedures (investigation, hearing, and any appeal, if applicable) before the~~Following a determination that sex discrimination occurred, the District may impose disciplinary sanctions or any other actions that are not supportive measures against the Respondent. ~~If the Decision Maker determines the Respondent was responsible for conduct that constitutes sexual harassment, the District will take disciplinary action against the Respondent and any other remedial action~~

~~it determines to be appropriate.~~—The action will be prompt, effective, and commensurate with the severity of the offense.

Possible disciplinary sanctions for student Respondents include written or verbal reprimand, required training or counseling, non-academic probation, suspension, and expulsion. Possible disciplinary sanctions for employee Respondents include written or verbal reprimand, required training or counseling, reduction in pay, demotion, suspension, or discharge.

The District may also provide Remedies, which may ~~for the Complainant might~~ include, but are not limited to:

- Providing an escort to ensure that the Complainant can move safely between classes and activities;
- Ensuring that the Complainant and Respondent do not attend the same classes or work in the same work area;
- Providing counseling services or a referral to counseling services;
- Providing medical services or a referral to medical services;
- Providing academic support services, such as tutoring;
- Arranging for a Complainant, if a student, to re-take a course or withdraw from a class without penalty, including ensuring that any changes do not adversely affect the Complainant's academic record; and
- Reviewing any disciplinary actions taken against the Complainant to see if there is a causal connection between the harassment and the misconduct that may have resulted in the Complainant's discipline.

~~Retaliation Prohibited~~

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

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

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

Introduction

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

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

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

Who May File a Complaints

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

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

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

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

Obligations of Employees

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

The District has designated the following employees as Responsible Employees:

- The California Education Code requires that any individuals with any of the following positions or substantially similar positions or job duties, regardless of the specific title the District may attach to the position be considered a Responsible Employee:
- - Title IX coordinator or other coordinator designated to comply with and carry out the District's responsibilities regarding anti-harassment;;
 - President
 - General Counsel
 - Vice Presidents
 - Deans
 - Executive Directors
 - Directors
 - Managers
 - Supervisors
 - Coordinators;
 - Student life staff;
 - Athletic staff (coaches, trainers, etc.)
 - Coaches of any student athletic or academic team or activity;
 - Athletic trainers, equipment personnel;
 - Faculty and adjunct faculty, teachers, instructors, or lecturers
 - Graduate student instructors;
 - Laboratory directors, coordinators, or principal investigators, Internship or externship directors or coordinators; study abroad program directors or coordinators.
 - Individuals identified as supervisors under California's Fair Employee and Housing Act also be identified as Responsible Employees.

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

Support Person or Advisor

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

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

Sexual Assault and Domestic Violence Counselors

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

Consolidation of Complaints

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

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

Emergency Removal

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

The District's Title IX Coordinator in consultation with the Threat Assessment Team and/or Behavioral Intervention Team (BIT), or designee will conduct the individualized safety and risk analysis.

If the Title IX Coordinator in consultation with the Threat Assessment Team and/or Behavioral Intervention Team (BIT), determines emergency removal is appropriate, he/she/they or designee will provide the person the District is removing from campus on an emergency basis with a notice and opportunity to attend a meeting and challenge the basis of his/her/their removal. The Title IX Coordinator in consultation with the Threat Assessment Team and/or Behavioral Intervention Team (BIT), or designee will determine whether the emergency removal from campus order is warranted after considering information provided by the Respondent challenging the emergency removal.

Administrative Leave

The District may place a non-student employee Respondent on administrative leave during the pendency of the grievance process described below.

Student Complainant Requests for Confidentiality

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

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

- The District is able to conduct a thorough investigation and obtain relevant evidence in the absence of the Complainant's cooperation.

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

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

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

The District will treat complainants and respondents equitably.

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

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

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

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

was egregious, including, but not limited to, an action that places the health or safety of any other person at risk or involves plagiarism, cheating, or academic dishonesty.

Timeframes and Extensions

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

- **Complaint evaluation:** The District will determine whether to dismiss or investigate a Complaint within **fourteen (14) business days**.
- **Complaint investigation:** The District will complete an adequate, reliable, and impartial investigation of Complaints within **240 calendar days**.
- **Questioning the Parties and Witnesses:** The District will complete the process that enables the Decision-Maker to question the Parties and Witnesses no later than **60 calendar days** after the date that the investigation concludes.
- **Live Hearing** (if any): The District will conduct a live hearing no later than **60 calendar days** after the date that the Decision-Maker completes the process that enables the Decision-Maker to question the Parties and Witnesses.
- **Determination Whether Sex-Based Harassment Occurred:** The District will issue a written determination whether sex-based harassment occurred no later than **45 business days** after the date that the Decision-Maker completes the process that enables the Decision-Maker to question the Parties and Witnesses or the date that the live hearing (if any) concludes, whichever occurs later.
- **Appeal** (if any): A Complainant or Respondent may submit a written appeal no later than **10 business days** from the date of the notice of determination whether sex-based harassment occurred or from the date of the District's notice of dismissal of a Complaint or any allegations. If a Complainant or Respondent submits an appeal to the District, the District will notify the other Party in writing within **5 business days** of receiving a Party's appeal and allow the non-appealing Parties at least **10 business days** from the date of receipt of the appeal to submit a written statement in support of, or challenging, the outcome. The appeal Decision-Maker will issue a written decision on whether to grant or deny the appeal, and the rationale for the decision, within **45 calendar days** after the Decision-Maker on appeal receives the response to the appeal or the last day to provide a response.

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

A Party may request an extension from the Title IX Coordinator in writing by explaining the reason for the delay and the length of the continuance requested. The Title IX

Coordinator will notify the Parties and document the grant or denial of a request for extension or delay as part of the case recordkeeping.

Privacy

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

Evidence

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

Student Complainants should be aware that any evidence available but not disclosed during the investigation might not be considered later in the grievance process. **Written evidence submitted by a Party is limited to a maximum of twenty (20) pages or 10,000 words.**

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

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

- Evidence that relates to the existence of a dating relationship or prior or subsequent consensual sexual relations between the Complainant and the Respondent unless the evidence is relevant to how the Parties communicated consent in prior or subsequent consensual sexual relations. Before allowing the consideration of any evidence that relates to the Complainant's sexual interests or prior sexual conduct, the investigator or Decision-Maker shall provide a written explanation to the Parties as to why consideration of the evidence is consistent with this procedure.

Written Notice of Allegations:

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

- The District's Title IX grievance procedures and any informal resolution process;
- Sufficient information available at the time to allow the Parties to respond to the allegations, including the identities of the Parties involved in the incident(s), the conduct alleged to constitute sex-based harassment, and the date(s) and location(s) of the alleged incident(s);
- Retaliation is prohibited;
- The Respondent is presumed not responsible for the alleged sex-based harassment until a determination is made at the conclusion of the grievance procedures. Prior to such a determination, the Parties will have an opportunity to present relevant and otherwise permissible evidence to a trained, impartial decision-maker;
- The Parties may have an Advisor of their choice who may be, but is not required to be, an attorney;
- The Parties are entitled to an equal opportunity to access the relevant and otherwise permissible evidence or an investigative report that accurately summarizes this evidence. The Parties are entitled to an equal opportunity to access the relevant and permissible evidence upon the request of any Party]; and
- Notice of the District's policies regarding knowingly making false statements or knowingly submitting false information during the grievance procedures. AP 3050 – Institutional Code of Ethics (for employees) and BP/AP 5500 – Standards of Conduct (for students).
- For a student Party, notice regarding appropriate counseling resources the District developed and maintains.

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

Dismissal of a Complaint:

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

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

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

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

If a Complaint is dismissed, the District will:

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

Investigation:

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

Burden of Gathering Evidence

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

Participation

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

- The District will not limit the choice or presence of the advisor for the Complainant or Respondent in any meeting or proceeding.
- The District may establish restrictions regarding the extent to which the advisor may participate in these grievance procedures, as long as the restrictions apply equally to the Parties.
- The District will provide the Parties with the same opportunities, if any, to have people other than the advisor of the Party's choice present during any meeting or proceeding involving the Party.

Opportunity to Present Witnesses and Evidence

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

Evidence

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

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

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

Questioning the Parties and Witnesses

The District will provide a process that enables the Decision-Maker to question Parties and Witnesses to adequately assess a Party's or Witness's credibility to the extent

credibility is both in dispute and relevant to evaluating one or more allegations of sex-based harassment.

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

- Allow the Investigator or Decision-Maker to ask such questions during individual meetings with a Party or Witness;
- Allow each Party to propose such questions that the Party wants asked of any Party or Witness and have those questions asked by the Investigator or Decision-Maker during one or more individual meetings, including follow-up meetings, with a Party or Witness, subject to the procedures for evaluating and limiting questions discussed below; and
- Provide each Party with an audio or audiovisual recording or transcript with enough time for the Party to have a reasonable opportunity to propose follow-up questions.
- If the District chooses to conduct a live hearing, the District's process for proposing and asking relevant and otherwise permissible questions and follow-up questions of Parties and Witnesses, including questions challenging credibility, will allow the Decision-Maker to ask such questions, and either:
 - Allow each Party to propose such questions that the Party wants asked of any Party or Witness and have those questions asked by the Decision-Maker, subject to the procedures for evaluating and limiting questions discussed below; or
 - Allow each Party's advisor to ask any Party or Witness such questions, subject to the procedures for evaluating and limiting questions discussed below. Such questioning will never be conducted by a Party personally. If the District permits advisor-conducted questioning and a Party does not have an advisor to ask questions on their behalf, the District will provide the Party with an advisor of the District's choice, without charge to the Party, for the purpose of advisor-conducted questioning. In those instances, the District will not appoint a confidential employee and may appoint, but is not required to appoint, an attorney to serve as an advisor.

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

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

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

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

Procedures for a Live Hearing, if offered

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

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

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

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

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

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

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

Determination Whether Sex-Based Harassment Occurred:

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

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

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

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

Appeals

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

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

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

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

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

Informal Resolution

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

~~conflict with Federal, State, or local law.~~ Before the initiation of an informal resolution process, the District will explain in writing to the Parties:

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

Supportive Measures

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

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

Disciplinary Sanctions and Remedies:

Following a determination that sex-based harassment occurred, the District may impose disciplinary sanctions on a student respondent including written or verbal reprimand,

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

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

- Providing an escort to ensure that the Complainant can move safely between classes and activities;
- Ensuring that the Complainant and Respondent do not attend the same classes or work in the same work area;
- Providing counseling services or a referral to counseling services;
- Providing medical services or a referral to medical services;
- Providing academic support services, such as tutoring;
- Arranging for a Complainant, if a student, to re-take a course or withdraw from a class without penalty, including ensuring that any changes do not adversely affect the Complainant's academic record; and
- Reviewing any disciplinary actions taken against the Complainant to see if there is a causal connection between the harassment and the misconduct that may have resulted in the Complainant's discipline.

Dissemination of Policy and Procedures

The District will provide its policy and procedures related to Title IX on its website and in each handbook, ~~or~~ catalog, **announcement, bulletin, and application form that is made available to ~~provided to~~** applicants for admission and employment, students, employees, and all unions or professional organizations holding collective bargaining **or professional agreements** with the District. The District will also provide its policy and procedures related to Title IX to all volunteers who will regularly interact with students and each individual or entity under contract with the District to perform any service involving regular interaction with students.

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

Training

- The District will provide a comprehensive trauma-informed training program to **all employees on the District's obligation to address sex discrimination in its education program or activity, the scope of conduct that constitutes sex discrimination including sex-based harassment under Title IX, and all applicable notification and information requirements under Title IX regulations.** The District will ensure that its Title IX Coordinator(s), investigators, Decision-Makers, facilitators of an information resolution process, and other persons who are

responsible for implementing the District's grievance procedures or have the authority to modify or terminate supportive measures, have training on topics required by Title IX regulations and State law and regulations. ~~Title IX Coordinators, investigators, Decision-Makers, and any individual who facilitates an informal resolution process, on the definition of sexual harassment, the scope of the District's education program or activities, best practices for assessment of a sexual harassment complaint, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, how to serve impartially, including avoiding prejudgment of the facts at issue, conflicts of interest, bias, and implicit bias and racial inequities, both broadly and in school disciplinary processes. Any materials used to train the District's Title IX Coordinator, investigators, Decision-Makers, and any person who facilitates an informal resolution process, will not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment.~~ Materials for this training must include statistics on the prevalence of sexual harassment and sexual violence in the educational setting, and the differing rates at which students experience sexual harassment and sexual assault in the educational setting based on their race, sexual orientation, disability, gender, and gender identity. The District will make these training materials available upon request for inspection by members of the public.

~~The District will provide Officials with Authority with training regarding his/her/their obligation to report sexual harassment and instruction on how to report sexual harassment to the Title IX Coordinator.~~

File Retention

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

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

- ~~• All materials used to train Title IX Coordinators, investigators, Decision-Makers, and any person who facilitates an informal resolution process. The District will make these training materials publicly available on its website. The District will make these documents available to the U.S. Department of Education Office for Civil Rights upon request.~~

Complaint Reporting

The Superintendent/President shall provide the Board of Trustees, upon request, a report of complaints filed pursuant to this procedure. This report must disaggregate the complaints by complaint type (Student Complainant and Student Respondent, Student Complainant and Employee Respondent, Employee Complainant and Student Respondent, Employee Respondent and Employee Respondent, etc.). This report must also disaggregate the complaints by the Complainant's race, age, gender, religion, or any other characteristic identified by the Board.

For non-Title IX matters, also see BP 3410 Nondiscrimination, BP/AP 3420 Equal Employment Opportunity, BP/AP 3430 Prohibition of Harassment, AP 3435 Discrimination and Harassment Complaints and Investigations.

Adopted: 6/12/23

Revised: 7/24



AP 3435 Discrimination and Harassment Complaints and Investigations

References:

Education Code Sections 212.5, 231.5, 66281.5, ~~66281.8~~ and 67386, and ~~87623~~;

Government Code Section 12950.1;

Title 5, Sections 59320, 59324, 59326, 59328, and 59300 et seq.;

Title 2 Sections 11023 and 11024

~~20 U.S. Code Sections 1681 et seq.~~

~~34 Code of Federal Regulations Part 106.8 subdivision (b);~~

~~ANTELOPE VALLEY COLLEGE COMPLAINT PROCEDURE FOR ALLEGATION OF DISCRIMINATION* OR SEXUAL HARASSMENT~~

For sexual discrimination under Title IX, Complainants must proceed under BP 3433 Prohibition of Sex Discrimination under Title IX, AP 3433 Prohibition of Sex Discrimination under Title IX, and AP 3434 Responding to Sex Discrimination under Title IX. For other forms of discrimination and harassment, Complainants should use this procedure.

Reporting and Filing Complaints

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

All responsible employees are required to report all actual or suspected sexual harassment to the Assistant Superintendent/Vice President, People, Culture, and Talent immediately. A responsible employee is any employee who has the authority to take action to redress sexual harassment or provide supportive measures to students, or who has been given the duty of reporting incidents of sexual harassment to an appropriate District official who has that authority.

Confidential Reporting

An employee who is a therapist, physician, psychotherapist, member of the clergy, sexual assault counselor, domestic violence counselor, or other individual acting in a professional capacity for which confidentiality is mandated by law is exempt from having to report sexual harassment concerns to the Title IX Coordinator or other designated employee, unless otherwise required by law.

An employee who is not considered a responsible employee must inform each student who provides him/her/them with information regarding sexual harassment of the student's ability to report to a responsible employee and direct the student to those specific reporting resources.

Outreach

When a responsible employee reports actual or suspected sexual harassment involving students to the Assistant Superintendent/Vice President, People, Culture, and Talent, the Assistant Superintendent/Vice President, People, Culture, and Talent will assess the report of sexual harassment and provide outreach, as appropriate, to each identifiable student who is alleged to be the victim of the reported conduct. The outreach shall include all of the following information:

- The District received a report that the student may have been a victim of sexual harassment;
- A statement that retaliation for filing a complaint or participating in the complaint process, or both, under this procedure is prohibited;
- Counseling resources within the District or in the community;
- Where a crime may have occurred, notice that the student has the right, but not the obligation, to report the matter to law enforcement;
- The District's complaint and investigation procedures established pursuant to this procedure;
- Potential interim measures, such as no-contact directives, housing changes, and academic schedule changes, where applicable;
- The importance of preserving evidence;
- A request for the student to meet with the Title IX coordinator or other designated employee to discuss options for responding to the report; and
- The manner in which the District responds to reports of sexual harassment and a description of potential disciplinary consequences.

The District shall consider and respond to requests for accommodations relating to prior incidents of student sexual harassment that could contribute to a hostile educational environment or otherwise interfere with a student's access to education where both individuals are, at the time of the request, subject to the District's policies.

Complaints

A Complaint is a written or verbal statement filed with the District that alleges harassment, discrimination, or retaliation in violation of the District's Board Policies, Administrative Procedures, or in violation of state or federal law. Complaints must be filed with the Assistant Superintendent/Vice President, People, Culture, and Talent unless the Party submitting the Complaint alleges discrimination, harassment, or retaliation against the responsible district officer, in which case it should be submitted directly to the Superintendent/President.

The District may request, but shall not require the Complainant to submit a Complaint on the form prescribed by the Chancellor of the California Community Colleges. A copy of the form will be available at the Office of the Superintendent/President, the Office of People, Culture, and Talent, and the District's People, Culture, and Talent website. A Complainant shall report a verbal Complaint to the Office of People, Culture, and Talent. The Assistant Superintendent/Vice President, People, Culture, and Talent shall record the verbal Complaint in writing. The Assistant Superintendent/Vice President, People, Culture, and Talent will take steps to ensure the writing accurately reflects the facts alleged by the Complainant.

A 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 or state or federal law prohibiting discrimination, harassment, or retaliation;
- The Complainant must file any 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 allegations of discrimination, harassment, or retaliation; and
- The Complainant must file any Complaint alleging discrimination, harassment, or retaliation in employment within three years of the date of the alleged discriminatory, harassing, or retaliatory conduct.

~~A formal complaint is a written and signed statement filed with the District or the State 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.~~

If the Complaint does not meet the requirements set forth above, the Assistant Superintendent/Vice President, People, Culture, and Talent will notify the Complainant within 14 days that the complaint does not contain allegations of unlawful discrimination that are sufficient under this procedure to trigger an investigation. The Assistant Superintendent/Vice President, People, Culture, and Talent will specify why the complaint is defective.

If the defect is based on the Complainant's failure to state sufficient facts to support a claim of unlawful discrimination, the Assistant Superintendent/Vice President, People, Culture, and Talent shall offer the Complainant an opportunity to proffer additional facts to support his/her/their claims through an intake interview, which shall be scheduled as soon as reasonably convenient for the Complainant and Assistant Superintendent/Vice President, People, Culture, and Talent or designee.

If, after the intake interview, the Assistant Superintendent/Vice President, People, Culture, and Talent determines that the Complainant has still not stated sufficient facts to support a claim of unlawful discrimination, the Assistant Superintendent/Vice President, People, Culture, and Talent shall provide the Complainant with a written determination explaining the basis for dismissing the complaint within 14 days of the intake interview. The Assistant Superintendent/Vice President, People, Culture, and Talent must also notify the Complainant of his/her/their right to appeal this determination directly to the Chancellor of the California Community Colleges within 30 days from the date of the notice of dismissal.

Oversight of Complaint Procedure

The Assistant Superintendent/Vice President **People, Culture, and Talent** 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 Assistant Superintendent/Vice President **People, Culture, and Talent of Human Resources** to a neutral investigator. A neutral investigator means an outside investigator or an internal investigator who is not in the chain of command of the respondent, not substantially implicated by the allegations in the complaint, and who is otherwise impartial. Neutral investigators must be properly trained to conduct such investigations. ~~to other staff or to outside persons or organizations under contract with the District. This shall occur whenever the Assistant Superintendent/Vice President of Human Resources is named in the complaint or implicated by the allegations in the complaint or if it is deemed more appropriate to have an outside investigator involved.~~

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.~~ 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. parent of a minor, or an individual with legal authority on behalf of a student or employee who believes the student or employee 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, parent of a minor, or an individual with legal authority on behalf of a student or employee who believes the student or employee has been discriminated against or harassed in violation of these policy and procedures may make a Complaint orally or in writing directed to the Assistant Superintendent/Vice President, **People, Culture, and Talent**. Complainants may but are not required to use the form prescribed by the Chancellor of the California Community Colleges. These forms are available from the Assistant Superintendent/Vice President, **People, Culture, and Talent** and at the California Community Colleges Chancellor's Office website.

~~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 3California Community Colleges Chancellor's Office. These approved forms are available from the Human Resources Office and at the California Community Colleges Chancellor's Office website.~~

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

- ~~The Assistant Superintendent/Vice President of Human Resources or designee;~~
- ~~The Assistant Superintendent/Vice President of Student Services~~
- ~~Superintendent/President~~
- ~~The California Community Colleges Chancellor's Office.~~

Advisers in Student Harassment Complaints

Student Parties in Complaints involving sexual harassment are permitted to have a support person or adviser accompany him/her/them during any stage of the Complaint process described in this procedure. Student Parties in Complaints involving sexual harassment have the right to consult with an attorney, at his/her/their own expense, at any stage of the Complaint process if he/she/they wishes to do so. An attorney may serve as a support person or adviser.

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)~~ California Civil Rights Department (CRD).

~~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 Assistant Superintendent/Vice President of Human Resources immediately.~~

Any District employee who receives a harassment or discrimination complaint shall notify the Assistant Superintendent/Vice President, People, Culture, and Talent 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 **eComplaint**. The District also strongly encourages the filing of such complaints within **thirty (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 ~~Although it is not required, the District~~ 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 Assistant Superintendent/Vice President, ~~People, Culture, and Talent of Human Resources or designee~~ shall:

- ~~Consider whether the District can u~~ndertake 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~~ all Parties that he/she/they need not participate in an informal resolution of the **eComplaint**, as described above, and ~~has they have~~ the right to end the informal resolution process at any time. Mediation is not permitted to resolve allegations of sexual violence.

- Advise a student eComplainant that he/she/they may file a eComplaint with the Office of Civil Rights of the U.S. Department of Education and employee eComplainants may file a complaint with the **California Civil Rights Department Department of Fair Employment and Housing**. All complainants should be advised that they have a right to file a eComplaint 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.
- Take interim steps to protect a eComplainant from coming into contact with an accused individual, especially if the eComplainant is a victim of sexual violence. The Assistant Superintendent/Vice President, **People, Culture, and Talent of Human Resources** should notify the complainant of his/her/their options to avoid contact with the accused individual and allow students to change academic situations as appropriate. For instance, the District may prohibit the accused individual from having any contact with the eComplainant pending the results of the investigation. When taking steps to separate the eComplainant and accused individual, the District shall minimize the burden on the eComplainant. For example, it is not appropriate to remove eComplainants from classes or housing while allowing accused individuals to remain.

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

Student Complainant Requests for Confidentiality

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

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

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

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

Informal Complaint

~~Any person may submit an informal complaint to the Assistant Superintendent/Vice President of Human Resources or any other District or college administrator. Administrators receiving an informal complaint shall immediately notify the Vice President of Human Resources in writing of all pertinent information and facts alleged in the informal complaint. Upon receipt of an informal complaint, the Assistant Superintendent/Vice President of 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 Assistant Superintendent/Vice President of 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 Assistant Superintendent/Vice President of 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 Assistant Superintendent/Vice President of Human Resources or designee will explain to any individual bringing an informal complaint that the Assistant Superintendent/Vice President of Human Resources or designee may decide to initiate an investigation, even if the individual does not wish the Vice President of Human Resources or designee to do so. The Assistant Superintendent/Vice President of 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 State Chancellor of the California Community Colleges or the Assistant Superintendent/Vice President of Human Resources or~~

~~designee unless the party submitting the Formal Complaint alleges discrimination, harassment, or retaliation against the responsible District officer, in which case it should be submitted directly to the Superintendent/President or the State 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 Human Resources Office and on the college's/district's website. 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; 2 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 one hundred eighty (180) days of the date of the alleged discriminatory, harassing, or retaliatory conduct, except that this period shall be extended by no more than ninety (90) days following the expiration of the one hundred eighty (180) days if the complainant first obtained knowledge of the facts of the alleged violation after the expiration of the one hundred eighty (180) days. If the Formal Complaint does not meet the requirements set forth above, the Assistant Superintendent/Vice President of Human Resources or designee 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 Assistant Superintendent/Vice President of Human Resources or designee will handle the matter as an informal 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 Assistant Superintendent/ Vice President of 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

~~The Assistant Superintendent/Vice President, People, Culture, and Talent shall:~~

- ~~• Provide notice to student Parties to a sexual harassment complaint that the District is conducting an investigation. The notice shall include the allegations against the Respondent and the alleged District policy violations under review. If new allegations that arise during the course of the District’s investigation that could subject either student Party to new or additional discipline or corrective action, the Assistant Superintendent/Vice President, People, Culture, and Talent shall provide a supplemental notice to the student Parties.~~
- ~~• Authorize the investigation of the Complaint, and supervise or conduct a thorough, prompt, and impartial investigation of the Complaint, as set forth below. Where the Parties opt for informal resolution, the designated officer will determine whether further investigation is necessary to ensure resolution of the matter and utilize the investigation process outlined below as appropriate. 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. 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. The District shall notify the Complainant that the District will commence an impartial fact-finding investigation of the allegations contained in the Complaint.

As set forth above, where the Parties opt for an informal resolution, the Assistant Superintendent/Vice President, People, Culture, and Talent 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 using trauma-informed investigation techniques.

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

Investigators will use the following steps: interviewing the Complainant; interviewing the accused individual; 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. Student Complainants should be aware that any evidence available but not disclosed during the investigation might not be considered at a subsequent hearing, if a hearing is required under this procedure. **Written evidence submitted by a Party is limited to a maximum of twenty (20) pages or 10,000 words.**

~~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:~~

- ~~6~~ Interview the complainant(s).
- Interview the accused individual(s).
- Identify and interview witnesses and evidence identified by each party.
- Identify and interview any other witnesses.
- If needed; remind all individuals interviewed of the District's no-retaliation policy.
- Consider whether any involved person should be removed from the campus pending completion of the investigation.
- Review personnel/academic files of all involved parties as warranted.
- 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, and the District shall notify the Complainant and Respondent of the outcome within ninety (90) days of the District receiving the eComplaint. The District will toll the timeline while the Parties are engaged in good faith efforts at informal resolution.

Cooperation Encouraged

All employees are expected to cooperate with a District investigation into allegations of harassment or discrimination. Lack of cooperation impedes the ability of the District to investigate thoroughly and respond effectively. However, lack of cooperation by a eComplainant 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 eComplaint is filed. No employee will be retaliated against as a result of lodging a eComplaint or participating in any workplace investigation.

Written Report

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

- A description of the circumstances giving rise to the ~~Formal~~ Complaint;
- A description of the procedural steps taken during the investigation, including all individuals contacted and interviewed;
- A summary of the testimony provided by each witness with information relevant to the allegations, including the Complainant interviewed by the investigator;;
- An explanation of why an identified potential witness was not interviewed;
- An analysis of relevant data or other evidence collected during the course of the investigation, including a list of relevant documents;

- A specific finding as to whether **each factual allegation in the Complainant occurred based on the preponderance of the evidence standard;**
- **A table of contents if the report exceeds ten (10) pages, and**
- ~~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 ~~Respondents~~ during the investigation process and any ensuing discipline.

Evidence of Past Sexual History

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

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

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

Administrative Determination

In any case not involving employment discrimination, within **ninety (90) days** of receiving a ~~formal e~~Complaint, the District shall complete its investigation and forward a copy or summary of the report, and written notice to the Complainant setting forth all of the following ~~: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 of the California Community Colleges:~~

- ~~• The Superintendent/President's or his/her/their designee's determination **of the Assistant Superintendent/Vice President of Human Resources or designee** as to whether **there is probable cause to believe** unlawful discrimination occurred with respect to each allegation in the **eComplaint based on a preponderance of the evidence standard and the basis for that determination including factual findings;**~~
- ~~• In the event a discrimination allegation is substantiated, **A** a description of actions taken, if any, to prevent similar **problems** acts of unlawful discrimination from occurring in the future;~~
- ~~• The proposed resolution of the **eComplaint;**~~
- ~~• The complainant's right to appeal to the District's Board of Trustees and the **California Community Colleges Chancellor's Office; and Chancellor of the California Community Colleges.**~~
- ~~• In **any case** matters involving student sexual misconduct, the Respondent's right to appeal to the District's Board of Trustees any disciplinary sanction imposed upon the Respondent.~~

~~employment discrimination, within ninety (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: o~~

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

- ~~• The Superintendent/President's or his/her/their designee's determination as to whether discrimination occurred with respect to each allegation in the Complaint based on the preponderance of the evidence standard and the basis for that determination including factual findings;~~
- ~~• If a discrimination allegation is substantiated, a description of actions taken, if any, to prevent similar acts of unlawful discrimination from occurring in the future;~~
- ~~• The proposed resolution of the Complaint; and~~
- ~~• The Complainant's right to appeal to the District's Board of Trustees and to file a Complaint with the California Civil Rights Department.~~

The District shall also provide the Respondent the following:

- ~~• The Superintendent/President's or his/her/their designee's determination as to whether unlawful discrimination occurred with respect to each allegation in the Complaint based on the preponderance of the evidence standard and the basis for that determination including factual findings;~~
- ~~• The proposed resolution of the Complaint, including any disciplinary action against the Respondent; and~~

- In matters involving student sexual misconduct not subject to Title IX, the Respondent's right to appeal to the District's Board of Trustees any disciplinary sanction imposed upon the Respondent.

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

In matters involving an academic employee placed on involuntary paid administrative leave, the District shall complete its investigation within 90 working days of the administrative leave commencing, unless the period of paid administrative leave is extended by agreement of the employee and District for a period not exceeding 30 additional calendar days.

Discipline for Student Sexual Misconduct Not Subject to Title IX

In a Complaint involving student sexual misconduct not subject to Title IX, if a student Respondent is subject to severe disciplinary sanctions, and the credibility of witnesses was central to the investigative findings, the District will provide an opportunity for the student Respondent to cross-examine witnesses indirectly at a live hearing, either in person or by videoconference, conducted by a neutral decision-maker other than the investigator.

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

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

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

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

The hearing officer shall provide an explanation of the meaning of the preponderance of the evidence standard, and affirm that it shall apply to adjudications under this procedure.

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

~~The determination of the Assistant Superintendent/Vice President of Human Resources or designee as to whether there is probable cause to believe discrimination occurred with respect to each allegation in the complaint; o A description of actions taken, if any, to prevent similar problems from occurring in the future; o The proposed resolution of the complaint; and o The complainant's right to appeal to the District Board of Trustees 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 **consistent with state and federal law**. The action will be prompt, effective, and commensurate with the severity of the offense.

Possible disciplinary sanctions for student Respondents include written or verbal reprimand, required training or counseling, non-academic probation, suspension, and expulsion. Possible disciplinary sanctions for employee Respondents include written or verbal reprimand, required training or counseling, reduction in pay, demotion, suspension, or discharge.

Remedies for the **eC**omplainant might include, but are not limited to:

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

If the District imposes discipline, the nature of the discipline will not be communicated to the **eC**omplainant. 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 **eC**omplainant; for example, the District may inform the **eC**omplainant that the harasser must stay away from the **eC**omplainant.

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 eComplainant from further harassment, or discrimination, **address the hostile environment, if one has been created, prevent its recurrence, address its affects**, and protect the eComplainant and witnesses from retaliation as a result of communicating with the eComplainant or assisting in the investigation.

The District will ensure that eComplainant and witnesses know how to report any subsequent problems, and should follow-up with eComplainant 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 pParties to the extent possible without impeding the District's ability to investigate and respond effectively to the eComplaint.

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

Appeals and District Final Decision

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 eComplainant is not satisfied with the results of the administrative determination, ~~the complainant~~ **he/she/they** may, within ~~fifteen (15)~~ **thirty (30)** days, submit a written appeal to the District Board of Trustees.

In a Complaint involving student sexual misconduct not subject to Title IX, a Respondent who is not satisfied with the results of the administrative determination may submit a written appeal to the District's Board of Trustees within thirty (30) days.

The Board ~~of Trustees~~ shall review the original eComplaint, the investigative report, the administrative determination, and the appeal. **The Board shall 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 Board ~~of Trustees~~ shall be forwarded to the eComplainant and ~~the Respondent. to the Chancellor of the California Community Colleges~~. The eComplainant shall also be notified of his/her/~~their~~ right to appeal this decision.

If the Board of Trustees does not act within forty-five (45) days, the administrative determination shall be deemed approved **on the 46th day** and shall become the final District decision in the matter. **The District shall promptly notify the Complainant and the Respondent of the Board's action, or if the Board took no action, that the administrative determination is deemed approved.**

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

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

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

~~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. 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 Roybal Federal Building 255 E. Temple Street, 4th Floor Los Angeles, CA 90012 <http://www.eeoc.gov> Office for Civil Rights (OCR) United States Department of Education 50 Beale Street, Suite 7200 San Francisco, CA 94105 <http://www.ed.gov/offices/OCR> Department of Fair Employment and Housing (DFEH) 611 West Sixth Street, Suite 1500 Los Angeles, CA 90017 <http://www.dfeh.ca.gov/default.asp> Extension of Time Within one hundred fifty (150) days of receiving a complaint, the District will forward the following to the Chancellor of the California Community Colleges: The original complaint; The report describing the nature and extent of the investigation conducted by the District; A copy of the notice sent to the complainant (pursuant to Government Code Section 59336); A copy of the final District decision rendered by the Board of Trustees or a statement indicating the date on which the administrative decision became final ¹¹ A copy of the notice to the complainant (pursuant to Government Code Section 59338); Such other information as the Chancellor of the California Community Colleges may require.~~

Remand

The California Community Colleges Chancellor's Office may remand any matter to the District for any of the following reasons: to cure defects in the investigation or in procedural compliance; to consider new evidence not available during the investigation despite the Complainant's due diligence that would substantially impact the outcome of the investigation; or to modify or reverse a decision of the District's Board of Trustees based upon misapplication of an applicable legal standard or an abuse of discretion.

If the California Community Colleges Chancellor's Office remands a matter to the District, the District shall take necessary action and issue a decision after remand within

60 days. In any case not involving employment discrimination, the Complainant may appeal the District's amended determination to the California Community Colleges Chancellor's Office within 30 days by following the appeal procedures above.

Extension of Time

A student Complainant or Respondent may request, in writing, an extension of a deadline related to a Complaint during periods of examinations or school closures. The District shall grant a student Party's reasonable request for an extension of a deadline related to a Complaint during periods of examinations or school closures.

If the District is unable to comply with the 90-day deadline, the District may extend the time to respond by up to 45 additional days. An extension may be taken only once without permission from the California Community Colleges Chancellor's Office, and must be necessary for one of the following reasons:

- a need to interview a party or witness who has been unavailable;
- a need to review or analyze additional evidence, new allegations, or new complaints related to the matter; or
- to prepare and finalize an administrative determination.

The District shall send a written notice to the Complainant and to a Respondent who is aware of an investigation indicating the necessity of an extension, the justification for the extension, and the number of days the deadline will be extended. The District shall send this notice no later than 10 days prior to the initial time to respond.

The District may request additional extensions from the California Community Colleges Chancellor's Office after the initial 45-day extension. The District shall send a copy of the extension request to the Complainant and to a Respondent who is aware of an investigation. The Complainant and Respondent may each file a written objection with the California Community Colleges Chancellor's Office within 5 days of receipt.

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

Disclosures to the California Community Colleges Chancellor's Office

Upon request of the California Community Colleges Chancellor's Office, the District shall provide copies of all documents related to a discrimination Complaint, including the following: the original Complaint, any investigative report unless subject to the attorney-client privilege, the written notice to the Complainant setting forth the results of the investigation, the final administrative decision rendered by the Board or a statement indicating the date upon which the decision became final, and a copy of the notification to the Complainant of his/her/their appeal rights, the Complainant's appeal of the District's administrative determination, any other non-privileged documents or information the Chancellor requests.

The District shall provide to the California Community Colleges Chancellor's Office an annual report with the following information: the number of employment and non-employment discrimination complaints and informal charges received in the previous academic year; the number of complaints and informal charges resolved in the previous academic year; the number of complaints of unlawful discrimination received in the previous academic year, and the number of those complaints that were sustained in whole or in part; and any other information requested by the Chancellor.

Interim and Supportive Measures

Interim measures are individualized services offered as appropriate to either or both the Complainant and Respondent in an alleged incident of sexual misconduct, prior to an investigation or while an investigation is pending.

Supportive measures are non-disciplinary, non-punitive individualized services offered free of charge to the Complainant or the Respondent regardless of whether a Complaint has been filed.

The District will provide interim or supportive measures to Parties as appropriate and as reasonably available.

Interim and supportive measures may include changes to academic, living, transportation, and working situation or protective measures such as counseling, extensions of deadlines, other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the Parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

No-Contact Directives

When requested by a Complainant or otherwise determined to be appropriate, the District shall issue an interim no-contact directive prohibiting the Respondent from contacting the Complainant during the pendency of the investigation. The District shall not issue an interim mutual no-contact directive automatically, but instead shall consider the specific circumstances of each case to determine whether a mutual no-contact directive is necessary or justifiable to protect the noncomplaining party's safety or well-being, or to respond to interference with an investigation. If the District issues a no-contact directive after making decision of responsibility, the no-contract directive shall be unilateral and only apply against the Party found responsible.

Upon the issuance of a mutual no-contact directive, the District shall provide the Parties with a written justification for the directive and an explanation of the terms of the directive. Upon the issuance of any no-contact directive, the District shall provide the Parties with an explanation of the terms of the directive, including the circumstances, if any, under which violation could be subject to disciplinary action.

File Retention

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

- the original Complaint;

- the investigatory report;
- the summary of the report if one is prepared;
- the notice provided to the Parties of the District's administrative determination and the right to appeal;
- any appeal; and
- the District's final decision.

For any appeal to the California Community Colleges Chancellor's Office, the district shall provide all relevant, non-privileged documents upon request of the California Community Colleges Chancellor's Office.

Failure to Comply

~~If a District, for reasons beyond its control, is unable to comply with the one hundred fifty (150) day deadline specified for submission of materials to the Chancellor of the California Community Colleges, the District may file a written request that the Chancellor of the California Community Colleges 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 of the California Community Colleges within five (5) days of receipt. The Chancellor of the California Community Colleges 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 of the California Community Colleges may proceed to review the case based on the original complaint and any other relevant information then available. File Retention The District will retain on file for a period of at least three (3) 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: 12 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 Assistant Superintendent/Vice President of Human Resources or designee, 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 the Assistant Superintendent/Vice President of Human Resources. 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 responsible District employee should, whenever possible, before a student or employee reveals information that he/she may wish to keep confidential, ensure that the person¹³ 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, and pastoral 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 who work or volunteer in health center, victim advocacy office, women's center, etc., 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 victim's 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 "preponderance of the evidence" standard of proof in determining whether there has been a violation of this policy. This standard of proof is also known as "more likely than not" standard.

Upon Receiving the Complaint – Health and Safety

The Title IX Coordinator or designee, 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 □ 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 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 14 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. 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 ninety (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, for example if the District permits the victim or accused to have a lawyer or other advisor present, it must do so for the other party. Any District imposed restrictions 15 on the ability of a lawyer or other advisor to

~~Speak or participate in the interview must also apply equally. 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 State California Community Colleges Chancellor's Office~~

~~The District considers all sexual misconduct complaints to be formal complaints. The Assistant Superintendent/Vice President of Human Resources or designee must notify the California Community Colleges 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 ~~p~~Policy and ~~p~~Procedures related to harassment will include information that specifically addresses sexual violence. District policy and procedures will be provided to all students, all employees, all volunteers who regularly interact with students, and each individual or entity under contract with the District to perform any service involving regular interaction with students at the District. District policy and procedures related to harassment will also be posted on campus and on the the District's website. ~~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.

Supervisory Employee Training

By January 1, ~~2021~~⁰, the District shall provide at least two (2) hours of classroom or other effective interactive training and education regarding sexual harassment to all supervisory employees and at least one (1) hour of classroom or other effective interactive training and education regarding sexual harassment to all nonsupervisory employees. All new employees must be provided with the training and education within six months of their assumption of his/her/~~their~~ position. After January 1, ~~2021~~⁰, the District shall provide sexual harassment training and education to each employee once every two (2) years. ~~An employee who received this training and education in 2019 is not required to have refresher training until after two years thereafter.~~

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

instructing supervisors in the prevention of harassment, discrimination, and retaliation, and shall be presented by trainers or educators with knowledge and expertise in the prevention of harassment, discrimination, and retaliation. Supervisor's harassment training must also address potential exposure and liability for employers and individuals, supervisor's obligation to report sexual harassment, discrimination, and retaliation when they become aware of it, appropriate remedial measures to correct harassing behavior. **Training for responsible employees must also address the responsible employee's obligation to report sexual harassment and instruction on how to report sexual harassment to the responsible District officer.**

The District will also provide comprehensive, trauma-informed training to each employee involved in the District's sexual harassment or discrimination grievance procedure including investigating and adjudicating complaints involving sexual violence, sexual assault, domestic violence, dating violence, and stalking. This training shall include information on trauma-informed investigatory and hearing practices that help ensure an impartial and equitable process, best practices for assessment of a sexual harassment or sexual violence complaint, best practices for questioning of the complainant, respondent, and witnesses, and implicit bias and racial inequities, both broadly and in school disciplinary processes. Materials for this training shall include statistics on the prevalence of sexual harassment and sexual violence in the educational setting, and the differing rates at which students experience sexual harassment and sexual assault in the educational setting based on their race, sexual orientation, disability, gender, and gender identity.

The District will 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 (2) ~~three (3)~~** years.

Staff Training

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

~~If other rules are violated, the District will address such violations separately from an allegation of sexual violence.~~

Complaint Reporting

~~The Superintendent/President shall provide the Board of Trustees, upon request, a report of complaints filed pursuant to this procedure. This report must disaggregate the Complaints by complaint type (Student Complainant and Student Respondent, Student Complainant and Employee Respondent, Employee Complainant and Student Respondent, Employee Respondent and Employee Respondent, etc.). This report must also disaggregate the Complaints by the Complainant's race, age, gender, religion, or any other characteristic identified by the Board.~~

Also see BP/AP 3410 Nondiscrimination, BP/AP 3430 Prohibition of Harassment, and BP/AP 3420 Equal Employment Opportunity.

Approved: 4/14/08

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Revised: 5/14/18

Revised: 5/13/19

Revised: 12/9/19

Revise: 7/24



AP 3540 Sexual and Other Assaults on Campus and in Campus Programs

References:

- Education Code Section 67385, 67385.7, and 67386;
- 20 U.S. Code Section 1092 subdivision (f);
- 34 Code of Federal Regulations Part 668.46 subdivision (b)(11)

Any sexual assault or physical abuse, including, but not limited to, rape, domestic violence, dating violence, sexual assault, or stalking, as defined by California law, whether committed by an employee, student, or member of the public, occurring on District property, in connection with all academic, educational, extra-curricular, athletic, and other programs of the District, whether those programs take place in the District facilities or at another location or on an off-campus site or facility maintained by the District, or on grounds or facilities maintained by a student organization, is a violation of District policies and regulations, and is subject to all applicable punishment, including criminal procedures and employee or student discipline procedures. (See also [AP 3433 Prohibition of Sexual Harassment under Title IX](#), [AP 3434 Respondent to Harassment Based on Sex under Title IX](#), and [AP 5500 Standards of Student Conduct](#))

~~“Sexual assault,” “dating violence,” “domestic violence,” and “stalking” are defined in AP 3434 Responding to Sex Discrimination under Title IX.—includes but is not limited to: rape, forced sodomy, forced oral copulation, rape by a foreign object, sexual battery, or threat of sexual assault. “Dating violence” means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of a romantic or intimate relationship will be determined based on the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. “Domestic violence” includes felony or misdemeanor crimes of violence committed by: • a current or former spouse of the victim; • a person with whom the victim shares a child in common; • a person who is cohabitating with or has cohabitated with the victim as a spouse; • a person similarly situated to a spouse of the victim under California law; or • any other person against an adult or youth victim who is protected from that person’s acts under California law. “Stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his/her safety or the safety of others, or to suffer substantial emotional distress.~~

It is the responsibility of each person involved in sexual activity to ensure that he/she/**they** has the affirmative consent of the other or others to engage in the sexual

activity. Lack of protest or resistance does not mean consent, nor does silence mean consent. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of consent.

“Affirmative consent” means affirmative, conscious, and voluntary agreement to engage in sexual activity.

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

All students, faculty members, or staff members who allege they are the victims of domestic violence, dating violence, sexual assault, or stalking on District property shall be provided with information regarding options and assistance available to them. Information shall be available from the campus ~~Sheriff's Department Police Department~~, which shall maintain the identity and other information about alleged sexual assault victims as confidential unless and until the campus ~~Sheriff's Department Police Department~~ is authorized to release such information by court order.

Sheriff personnel shall provide all alleged victims of domestic violence, dating violence, sexual assault, or stalking with the following, **upon request**:

- A copy of the District's policy and procedure regarding domestic violence, dating violence, sexual assault, or stalking;
- A list of personnel on campus who should be notified **and procedures for such notification, if the alleged victim consents; of the assault (see list below), and procedures for such notification, if the alleged victim consents;**
 - **Notifications include:**
 - Title IX Coordinator
 - Assistant Superintendent/Vice President, Student Services (for students)
 - Assistant Superintendent/Vice President, People, Culture, and Talent (for employees)
- Information about the importance of preserving evidence and the identification and location of witnesses;
- A description of available services, and the persons on campus available to provide those services if requested; **Service and those responsible for provided or arranging them include:**
 - **The Title IX Coordinator for accommodations and referrals**
 - **The Superintendent/President**
 - **The Vice President of Student Services for ~~referral to a counseling center and other on or off-campus resources~~, student disciplinary procedures; ~~modification of class schedules, and tutoring, if necessary.~~**
 - **The Assistant Superintendent/Vice President, People, Culture, and Talent ~~Vice President of Human Resources~~ for employee disciplinary procedures**

- -The Antelope Valley College Sheriff's Department for transportation to a hospital, if necessary, and all other law enforcement matters.
- Sexual Assault Response Services (SARS) (661) 723-7273
- The victim's option to:
 - notify proper law enforcement authorities, including on-campus and local police;
 - be assisted by campus authorities in notifying law enforcement authorities if the victim so chooses; and
 - decline to notify such authorities;
- Information about the participation of victim advocates and other supporting people;
- The rights of victims and the institution's responsibilities regarding orders of protection, no contact orders, or similar lawful orders issued by a court;
- Information about how the District will protect the confidentiality of victims; and
- Written notification of victims about options for, and available assistance in, changing academic, living, transportation, and working situations, if requested and if such accommodations are reasonably available, regardless of whether the victim chooses to report the crime to campus police or local law enforcement.

A description of each of the following ~~procedures~~ options:

- ~~counselors and support services for victims;~~
- ~~c~~riminal prosecution;
- ~~c~~ivil prosecution (i.e., lawsuit);
- District disciplinary procedures, both student and employee;
- ~~M~~odification of class schedules;
- ~~T~~tutoring, if necessary.
- ~~alternative dispute resolution or other accountability processes;~~
- ~~alternative housing assignments; and~~
- ~~academic assistance alternative.~~

~~The Title IX Coordinator should be available to provide assistance to District law enforcement unit employees regarding how to respond appropriately to reports of sexual violence.~~

The District will investigate all complaints alleging sexual assault under the procedures for sexual harassment investigations described in AP 343~~54~~ ~~Responding to Sex Discrimination under Title IX Discrimination and 3 Harassment Complaints and Investigations~~, regardless of whether a complaint is filed with local law enforcement.

All alleged victims of domestic violence, dating violence, sexual assault, or stalking on District property shall be kept informed, through the Campus Sheriff's Department, or the ~~Vice President of Student Services Title IX Coordinator~~ of any ongoing investigation. Information shall include the status of any student or employee disciplinary proceedings or appeal; alleged victims of domestic violence, dating violence, sexual assault, or stalking are required to maintain any such information in confidence, unless the alleged assailant has waived rights to confidentiality ~~consistent~~

~~with state and federal law. The District shall maintain the identity of any alleged victim, witness, or third-party reporter of domestic violence, dating violence, sexual assault, or stalking on District property, as defined above, in confidence unless the alleged victim, witness, or third-party reporter specifically waives that right to confidentiality. All inquiries from reporters or other media representatives about alleged domestic violence, dating violence, sexual assaults, or stalking on District property shall be referred to the District's Public Information Office, which shall work with the campus Police Sheriff Department and the Vice President of Student Services Office to assure that all confidentiality rights are maintained.~~

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

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

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

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

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

The District shall maintain the identity of any alleged victim, witness, or third-party reporter of domestic violence, dating violence, sexual assault, or stalking on District property, as defined above, in confidence **consistent with state and federal law**, unless the alleged victim, witness, or third-party reporter specifically waives that right to confidentiality. All inquiries from reporters or other media representatives about alleged

domestic violence, dating violence, sexual assaults, or stalking on District property shall be referred to the District's Public Information Office, which shall work with the ~~Human Resources Office~~ Title IX Coordinator to assure that all confidentiality rights are maintained consistent with state and federal law.

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

- A description of educational programs to promote the awareness of rape, acquaintance rape, and other forcible and non-forcible sex offenses, domestic violence, dating violence, or stalking;
- Procedures to follow if a domestic violence, dating violence, sex offense, or stalking occurs, including who should be contacted, the importance of preserving evidence to prove a criminal offense, and to whom the alleged offense should be reported;
- Information on a student's right to notify appropriate law enforcement authorities, including on-campus and local police, and a statement that campus personnel will assist the student in notifying these authorities, if the student so requests, and the right to decline to notify these authorities;
- Information about how the District will protect the confidentiality of victims;
- Information for students about existing on- and off-campus counseling, mental health, victim advocacy, legal assistance, or other services for victims;
- Written notification of victims about options for, and available assistance in, changing academic, living, transportation, and working situations, if requested and if such accommodations are reasonably available, regardless of whether the victim chooses to report the crime to campus police or local law enforcement
- Procedures for campus disciplinary action in cases of an alleged domestic violence, dating violence, sexual assault, or stalking including a clear statement that:
 - Such proceedings shall provide a prompt, fair, and impartial resolution;
 - Such proceedings shall be conducted by officials who receive annual training on the issues related to domestic violence, dating violence, sexual assault, and stalking and how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability;
 - The accuser and the accused are entitled to the same opportunities to have others present during a disciplinary proceeding; and
 - Both the accuser and the accused must be informed of the outcome of any institutional disciplinary proceeding resulting from an alleged domestic violence, dating violence, sexual assault, or stalking, the procedures for the accused and victim to appeal the results of the disciplinary proceeding, of any changes to the results that occurs prior to

the time that such results become final, and when such results become final. Compliance with this paragraph does not violate the Family Educational Rights and Privacy Act. For the purposes of this paragraph, the outcome of a disciplinary proceeding means the final determination with respect to the **alleged domestic violence, dating violence, sex offense, or stalking sex-offense** and any sanction that is imposed against the accused.

- A description of the sanctions the campus may impose following a final determination by a campus disciplinary proceeding regarding rape, acquaintance rape, or other forcible or nonforcible sex offenses, domestic violence, dating violence, or stalking.

Sexual Assault and Domestic Violence Counselors

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

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

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

Education and Prevention Information

The Superintendent/President or designee shall:

- Provide, as part of the campus' established on-campus orientation program, education, prevention, and outreach information about domestic violence, dating violence, sexual assault, and stalking. The information shall be developed in collaboration with campus-based and community-based victim advocacy organizations, and shall include the District's sexual assault policy and prevention strategies including empowerment programming for victim prevention, awareness raising campaigns, primary prevention, bystander intervention, and risk reduction. ~~(NOTE: Beginning January 1, 2020, Districts must annually review and update procedures and protocols adopted pursuant to Education Code Section 67385 in collaboration with sexual assault counselors and student, faculty, and staff representatives.)~~

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

- The warning signs of intimate partner and dating violence.
- Campus policies and resources relating to intimate partner and dating violence.

- Off-campus resources and centers relating to intimate partner and dating violence.
- A focus on prevention and bystander intervention training as it relates to intimate partner and dating violence.

Post sexual violence prevention and education information on the campus internet website regarding domestic violence, dating violence, sexual assault, and stalking.

Also see BP 3540 Sexual and Other Assaults on Campus, BP/AP 3410 Nondiscrimination, BP/AP 3430 Prohibition of Harassment, and AP 3435 Discrimination and Harassment Complaints and Investigations.

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