



Policy

3430 Prohibition of Harassment

Harassment is contrary to basic standards of civil conduct between individuals. State and federal law and this policy prohibit legally defined harassment. The District is committed to providing an academic and work environment that respects the dignity of individuals and groups, and encourages an internal culture in which we can respectfully agree to disagree with each other. The District shall be free of unlawful harassment, including that which is based on any of the following statuses: race, religious creed, political affiliation, color, national origin, ethnicity, ancestry, immigration status, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, military and veteran status, or because he/she/they is perceived to have one or more of the foregoing characteristics.

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

Any student, employee, trustee, unpaid intern, or volunteer who believes that he/she/they has been harassed or retaliated against in violation of this policy should immediately report such incidents by following the procedures described in AP 3435. 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 Chancellor shall ensure that the institution undertakes education and training activities to counter harassment and to prevent, minimize, or eliminate any hostile environment that impairs access to equal education opportunity or impacts the terms and conditions of employment.

The Chancellor shall establish procedures that define harassment on campus. The Chancellor shall further establish procedures for employees, students, trustees, unpaid interns, volunteers, and other members of the campus community that provide for the investigation and resolution of complaints regarding

1 harassment and discrimination, and procedures to resolve complaints of harassment and discrimination.
2 State and federal law and this policy prohibit retaliatory acts by the District, its employees, students, and
3 agents.
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5 The District will publish and publicize this policy and related written procedures (including the procedure
6 for making complaints), BP 3-8020, and academic freedom policies BP 4030 and 5-8081 to administrators,
7 faculty, staff, students, trustees, unpaid interns, and volunteers, particularly when they are new to the
8 institution. The District will make this policy and related written procedures (including the procedure for
9 making complaints) available in all administrative offices and will post them on the District’s website.
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11 Employees who violate the policy and procedures may be subject to disciplinary action up to and including
12 termination. Students who violate this policy and related procedures may be subject to disciplinary
13 measures up to and including expulsion. Trustees who violate this policy and related procedures may be
14 subject to censure. Volunteers or unpaid interns who violate this policy and related procedures may be
15 subject to disciplinary measure up to and including termination from the volunteer assignment,
16 internship, or other unpaid work experience program.
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18 Academic Freedom and Freedom of Speech 19

20 No provision of this Policy or Administrative Procedure shall be interpreted to prohibit conduct that is
21 legitimately related to the course content, teaching methods, scholarship, or public commentary of an
22 individual faculty member or the educational, political, artistic, or literary expression of students in
23 classrooms and public forums. Freedom of speech and academic freedom are, however, not limitless and
24 this procedure will not protect speech or expressive conduct that violates federal or California anti-
25 discrimination laws.
26

27 **Cross References (see also):**

28 YCCD Policy 3435 – Discrimination and Harassment Complaints and Investigations

29 YCCD Policy 3540 – Sexual and Other Assaults on Campus

30 YCCD Policy 3433 – Prohibition of Sexual Harassment under Title IX

31 YCCD Policy 3434 – Responding to Harassment Based on Sex under Title IX

32 YCCD Policy 3-8020 – Due Process

33 YCCD Policy 5500 – Standards of Student Conduct

34 YCCD Policy 5530 – Complaint Policy

35 YCCD Policy 7700 – Whistleblower Protection

36 [YCCD Board of Trustees 2020-2021 Goals/Special Priorities – Priority #5](#)

37 [YCCD Resolution 20-21.03 Condemning Racism and Affirming Ongoing Commitment to Serve Our Diverse
38 Student Population](#)

39 **References:**

40 Education Code Sections [212.5](#), [44100](#), [66252](#), and [66281.5](#); Government Code Sections [12923](#), [12940](#) and
41 [12950.1](#); Civil Code Section [51.9](#); Title 2 Sections [10500 et seq.](#); [Title VII of the Civil Rights Act of 1964](#), [42](#)
42 [U.S. Code Annotated Section 2000e](#); Collective Bargaining Agreements and Leadership Team Handbook;
43 [Age Discrimination in Employment Act of 1967 \(ADEA\)](#); [Americans with Disabilities Act of 1990 \(ADA\)](#)
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45 **Adopted:** June 28, 2004

46 **Revision Adopted:** ~~October 14, 2009, August 26, 2016,~~ February 10, 2021

47 **Last Reviewed:** ~~August 26, 2016,~~ February 10, 2021
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Administrative Procedure

3430 Prohibition of Harassment

The District is committed to providing an academic and work environment free of unlawful harassment. This procedure defines sexual harassment and other forms of harassment occurring in any District education program or activity, and sets forth a procedure for the investigation and resolution of complaints of harassment by or against any staff or faculty member or student within the District.

This procedure and the related policy protect students, employees, trustees, unpaid interns, and volunteers in connection with all the District education programs and activities, including those locations, events or circumstances over which the District exercises a substantial amount of control over both the respondent and the context in which the sexual harassment occurred, and includes any building owned or controlled by a student organization that is officially recognized by the institution (e.g. fraternity or sorority houses, if applicable).

I. Definitions

A. 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:

1. 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,

1 patronizing, or ridiculing statements that convey derogatory attitudes based on gender, race,
2 nationality, sexual orientation, or other protected status.

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- 4 2. Physical: Inappropriate or offensive touching, assault, or physical interference with free
5 movement. This may include, but is not limited to, kissing, patting, lingering or intimate
6 touches, grabbing, pinching, leering, staring, unnecessarily brushing against, or blocking
7 another person, whistling, or sexual gestures. It also includes any physical assault or
8 intimidation directed at an individual due to that person's gender, race, national origin, sexual
9 orientation, or other protected status. Physical sexual harassment includes acts of sexual
10 violence, such as rape, sexual assault, sexual battery, and sexual coercion. Sexual violence
11 refers to physical sexual acts perpetuated against a person's will or where a person is
12 incapable of giving consent due to the victim's use of drugs or alcohol. An individual also may
13 be unable to give consent due to an intellectual or other disability.
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- 15 3. Visual or Written: The display or circulation of visual or written material that degrades an
16 individual or group based on gender, race, nationality, sexual orientation, or other protected
17 status. This may include, but is not limited to, posters, cartoons, drawings, graffiti, reading
18 materials, computer graphics, or electronic media transmissions.
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- 20 4. Environmental: A hostile academic or work environment may exist where it is permeated by
21 sexual innuendo; insults or abusive comments directed at an individual or group based on
22 gender, race, nationality, sexual orientation, or other protected status; or gratuitous
23 comments regarding gender, race, sexual orientation, or other protected status that are not
24 relevant to the subject matter of the class or activities on the job. A hostile environment can
25 arise from an unwarranted focus on sexual topics or sexually suggestive statements in the
26 classroom or work environment. It can also be created by an unwarranted focus on, or
27 stereotyping of, particular racial or ethnic groups, sexual orientations, genders, or other
28 protected statuses. An environment may also be hostile toward anyone who merely
29 witnesses unlawful harassment in his/her/their immediate surroundings, although the
30 conduct is directed at others. The determination of whether an environment is hostile is
31 based on the totality of the circumstances, including such factors as the frequency of the
32 conduct, the severity of the conduct, whether the conduct is humiliating or physically
33 threatening, and whether the conduct unreasonably interferes with an individual's learning
34 or work.

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36 B. Sexual Harassment.

37 Sexual harassment is defined to include the following types of misconduct on the basis of sex:

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- 39 • An employee of the recipient conditioning the provision of an aid, benefit, or service of
40 the recipient on an individual's participation in unwelcome sexual conduct (quid pro quo
41 harassment);
 - 42 • Unwelcome conduct on the basis of sex that is so severe, pervasive, and objectively
43 offensive that it effectively denies a person equal access to the recipient's education
44 program or activity; or
 - 45 • Sexual assault, as defined in 34 Code of Federal Regulations Sections 668.46(a), dating
46 violence, domestic violence or stalking as defined in the Violence Against Women Act.
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1 In addition to the above, sexual harassment consists of unwelcome sexual advances, requests for
2 sexual favors, and other verbal, visual, or physical conduct of a sexual nature made by someone
3 from, or in, the work or educational setting when:

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

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

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19 "Hostile environment" sexual harassment occurs when unwelcome conduct based on a person's
20 gender alters the conditions of an individual's learning or work environment, unreasonably
21 interferes with an individual's academic or work performance, or creates an intimidating, hostile,
22 or abusive learning or work environment. The victim must subjectively perceive the environment
23 as hostile, and the harassment must be such that a reasonable person of the same gender would
24 perceive the environment as hostile. A single or isolated incident of sexual harassment may be
25 sufficient to create a hostile environment if it unreasonably interfered with the person's academic
26 or work performance or created an intimidating, hostile, or offensive learning or working
27 environment.

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

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34 C. Consensual Relationships

35 Romantic or sexual relationships between supervisors and employees, or between
36 administrators, faculty members, or staff members and students are strongly discouraged. When
37 such relationships are formed, it is advised to notify their direct supervisor for the protection of
38 all parties. There is an inherent imbalance of power and potential for exploitation in such
39 relationships. A conflict of interest may arise if the administrator, faculty member, or staff
40 member must evaluate the student's or employee's work or make decisions affecting the
41 employee or student. The relationship may create an appearance of impropriety and lead to
42 charges of favoritism by other students or employees. A consensual sexual relationship may
43 change, with the result that sexual conduct that was once welcome becomes unwelcome and
44 harassing. In the event that such relationships do occur, the District has the authority to transfer
45 any involved employee, to eliminate or attenuate the supervisory authority of one over the other,
46 or of a teacher over a student. Such action by the District is a proactive and preventive measure
47 to avoid possible charges of harassment and does not constitute discipline against any affected
48 employee.

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II. Academic Freedom and Freedom of Speech

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Cross References (see also):

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- YCCD Policy 3-8020 – Due Process
- YCCD Policy 5500 – Standards of Student Conduct
- YCCD Policy 5530 – Complaint Policy
- YCCD Policy 7700 – Whistleblower Protection

References:

Education Code Sections [212.5](#), [44100](#), and [66281.5](#); Government Code Sections [12923](#) and [12940](#); 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](#); Collective Bargaining Agreements and Leadership Team Handbook

Procedure Last Revised: ~~April 11, 2007, August 26, 2016~~, February 10, 2021
Last Reviewed: ~~August 26, 2016~~, February 10, 2021