



Policy

3435 Discrimination and Harassment Complaints and Investigations

The Chancellor shall ensure procedures are enacted, as appropriate and permitted by law, regarding discrimination and harassment investigations.

Cross References (see also):

YCCD Policy 3430 – Prohibition of Harassment

YCCD Policy 5500 – Standards of Student Conduct

YCCD Policy 3540 – Sex/Gender Harassment, Discrimination and Sexual Misconduct

References:

Collective Bargaining Agreements and Leadership Team Handbook

Adopted: August 26, 2016

Last Reviewed: August 26, 2016

Administrative Procedure

3435 Discrimination and Harassment Complaints and Investigations

(Additional information specific to sex/gender based harassment, discrimination or sexual misconduct investigation begins on page 9.)

Complaints

Any person who has suffered harassment, discrimination, or retaliation may file a formal or informal complaint of harassment, discrimination, or retaliation.

A formal complaint is a written and signed statement filed with the District or the State Chancellor’s Office that alleges harassment, discrimination, or retaliation in violation of the District’s Board Policies, Administrative Procedures or in violation of state or federal law. An informal complaint is any of the following: (1) An unwritten allegation of harassment, discrimination, or retaliation; (2) a written allegation of harassment, discrimination, or retaliation that falls outside the timelines for a formal complaint; or (3) a written complaint alleging harassment, discrimination, or retaliation filed by an individual who expressly indicates that he/she does not want to file a formal complaint.

Informal Complaints

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

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

Investigation of an informal complaint will be appropriate if the Vice Chancellor of Human Resources determines that the allegation(s), if proven true, would constitute a violation of the District policy prohibiting harassment, discrimination, or retaliation. The Vice Chancellor of Human Resources will explain to any individual bringing an informal complaint that the Vice Chancellor of Human Resources may decide to initiate an investigation, even if the individual does not wish the Vice Chancellor of Human Resources to do so. The Vice Chancellor of Human Resources 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 Vice Chancellor of Human Resources or the State Chancellor unless the party submitting the Formal Complaint alleges discrimination, harassment, or retaliation against the responsible District officer, in which case it should be submitted directly to the Chancellor or the State Chancellor.

1 Formal Complaints should be submitted on the form prescribed by the State Chancellor. A copy of the
2 form is available at the District website.

3
4 If any party submits a written allegation of harassment, discrimination, or retaliation not on the form
5 described above, the District will seek to have the individual complete and submit the form. However, if
6 the individual chooses not to do so, the District will attach the written allegation(s) to the form and treat
7 it as a Formal Complaint. In no instance will the District reject a written allegation of harassment,
8 discrimination, or retaliation on the basis that it was not submitted on the proper form.

9
10 A Formal Complaint must meet each of the following criteria:

- 11 • It must allege facts with enough specificity to show that the allegations, if true, would constitute
12 a violation of District policies or procedures prohibiting discrimination, harassment, or retaliation;
13
- 14 • The complainant must sign and date the Formal Complaint;
- 15
- 16 • The complainant must file any Formal Complaint not involving employment within one year of
17 the date of the alleged discriminatory, harassing, or retaliatory conduct or within one year of the
18 date on which the complainant knew or should have known of the facts underlying the
19 allegation(s) of discrimination, harassment, or retaliation.
20
- 21 • The complainant must file any Formal Complaint alleging discrimination, harassment, or
22 retaliation in employment within 180 days of the date of the alleged discriminatory, harassing, or
23 retaliatory conduct, except that this period shall be extended by no more than 90 days following
24 the expiration of the 180 days if the complainant first obtained knowledge of the facts of the
25 alleged violation after the expiration of the 180 days.

26
27 If the Formal Complaint does not meet the requirements set forth above, the Vice Chancellor of Human
28 Resources will promptly return it to the complainant and specify the defect. If the sole defect is that the
29 Formal Complaint was filed outside the applicable proscribed timeline, the Vice Chancellor of Human
30 Resources will handle the matter as an informal complaint.

31
32 Oversight of Complaint Procedure: The Vice Chancellor of Human Resources, or in the case of sex/gender
33 based harassment or discrimination the Title IX Administrator or Campus Coordinator, is the "responsible
34 District officer" charged with receiving complaints of discrimination or harassment, and coordinating their
35 investigation.

36
37 The actual investigation of complaints may be assigned by the Vice Chancellor of Human Resources to
38 other staff or to outside persons or organizations under contract with the District. This shall occur
39 whenever the Vice Chancellor of Human Resources is named in the complaint or implicated by the
40 allegations in the complaint.

41
42 Who May File a Complaint: Any student, employee, or third party who believes he/she has been
43 discriminated against, or harassed by, or retaliated against by a student, employee, or third party in
44 violation of this procedure and the related policy.

45
46 Where to File a Complaint: A student, employee, or third party who believes he/she has been
47 discriminated against or harassed in violation of these policy and procedures may make a complaint orally
48 or in writing.

1 If a complainant decides to file a formal written unlawful discrimination or harassment complaint against
2 the District, he/she must file the complaint on a form prescribed by the State Chancellor's Office. These
3 approved forms are available at the District's website and at the State Chancellor's website.
4

5 The completed form must be filed with the Vice Chancellor of Human Resources or the State Chancellor
6 unless the party submitting the Formal Complaint alleges discrimination, harassment, or retaliation
7 against the responsible District officer, in which case it should be submitted directly to the Chancellor or
8 the State Chancellor.
9

10 Employment-Related Complaints

11 Complainants filing employment-related complaints shall be notified that they may file employment
12 discrimination complaints with the U.S. Equal Employment Opportunity Commission (EEOC) or the
13 Department of Fair Employment and Housing (DFEH).
14

15 Complaints filed with the EEOC or the DFEH should be forwarded to the State Chancellor's Office.
16

17 Filing a Timely Complaint: Since failure to report harassment and discrimination impedes the District's
18 ability to stop the behavior, the District strongly encourages anyone who believes they are being harassed
19 or discriminated against to file a complaint. The District also strongly encourages the filing of such
20 complaints within 30 days of the alleged incident. While all complaints are taken seriously and will be
21 investigated promptly, delay in filing impedes the District's ability to investigate and remediate.
22

23 All supervisors and managers have a mandatory duty to report incidents of harassment and
24 discrimination; the existence of a hostile, offensive or intimidating work environment, and acts of
25 retaliation.
26

27 The District will investigate complaints involving acts that occur off campus if they are related to an
28 academic or work activity.
29

30 Communicating that the Conduct is Unwelcome: The District further encourages students and staff to let
31 the offending person know immediately and firmly that the conduct or behavior is unwelcome, offensive,
32 in poor taste or inappropriate.
33

34 Intake and Processing of the Complaint: Upon receiving notification of a harassment or discrimination
35 complaint, the Vice Chancellor of Human Resources, or in the case of sex/gender based harassment or
36 discrimination the Title IX Administrator or Campus Coordinator, shall:

- 37 • Undertake efforts to informally resolve the charges, including but not limited to mediation,
38 rearrangement of work/academic schedules; obtaining apologies; providing informal
39 counseling, training, etc.
40
- 41 • Advise the complainant that he/she need not participate in an informal resolution of the
42 complaint, as described above, and has the right to end the informal resolution process at any
43 time. Mediation is not appropriate for resolving incidents involving sexual violence.
44
- 45 • Advise a student complainant that he/she may file a complaint with the Office of Civil Rights
46 of the U.S. Department of Education and employee complainants may file a complaint with
47 the Department of Fair Employment and Housing. All complainants should be advised that
48 they have a right to file a complaint with local law enforcement, if the act complained of is
49 also a criminal act. The District must investigate even if the complainant files a complaint with
50 local law enforcement. In addition, the District should ensure that complainants are aware

1 of any available resources, such as counseling, health, and mental health services. The Vice
2 Chancellor of Human Resources shall also notify the State Chancellor’s Office of the
3 complaint.
4

- 5 • Take interim steps to protect a complainant from coming into contact with an accused
6 individual, especially if the complainant is a victim of sexual violence. The Vice Chancellor of
7 Human Resources, or Title IX Administrator/Campus Coordinator, should notify the
8 complainant of his/her options to avoid contact with the accused individual and allow
9 students to change academic situations as appropriate. For instance, the District may prohibit
10 the accused individual from having any contact with the complainant pending the results of
11 the investigation. When taking steps to separate the complainant and accused individual, the
12 District shall minimize the burden on the complainant. For example, it is not appropriate to
13 remove complainants from classes or housing while allowing accused individuals to remain.
14

15 Investigation

16 The Vice Chancellor of Human Resources, or in the case of sex/gender based harassment or discrimination
17 the Title IX Administrator or Campus Coordinator, shall:
18

- 19 • Authorize the investigation of the complaint, and supervise or conduct a thorough, prompt
20 and impartial investigation of the complaint, as set forth below. Where complainants opt for
21 informal resolution, the designated officer will determine whether further investigation is
22 necessary to ensure resolution of the matter and utilize the investigation process outlined
23 below as appropriate. In the case of a formal complaint, the investigation will include
24 interviews with the complainant, the accused, and any other persons who may have relevant
25 knowledge concerning the complaint. This may include victims of similar conduct.
26
- 27 • Review the factual information gathered through the investigation to determine whether the
28 alleged conduct constitutes harassment, or other unlawful discriminatory conduct, giving
29 consideration to all factual information and the totality of the circumstances, including the
30 nature of the verbal, physical, visual or sexual conduct, and the context in which the alleged
31 incidents occurred.
32

33 Investigation of the Complaint: The District shall promptly investigate every complaint of harassment or
34 discrimination. No claim of workplace or academic harassment or discrimination shall remain
35 unexamined. This includes complaints involving activities that occur off campus and in connection with
36 all the academic, educational, extracurricular, athletic, and other programs of the District, whether those
37 programs take place in the District’s facilities, on a District bus, or at a class or training program sponsored
38 by the District at another location.
39

40 As set forth above, where the complainant opts for an informal resolution, the Vice Chancellor of Human
41 Resources, or in the case of sex/gender based harassment or discrimination the Title IX Administrator or
42 Campus Coordinator, may limit the scope of the investigation, as appropriate. The District will keep the
43 investigation confidential to the extent possible, but cannot guarantee absolute confidentiality because
44 release of some information on a “need-to-know-basis” is essential to a thorough investigation. When
45 determining whether to maintain confidentiality, the District may weigh the request for confidentiality
46 against the following factors: the seriousness of the alleged harassment; the complainant’s age; whether
47 there have been other harassment complaints about the same individual; and the accused individual’s
48 rights to receive information about the allegations if the information is maintained by the District as an
49 “education record” under the Family Educational Rights and Privacy Act (FERPA), 20 U.S. Code Section

1 1232g; 34 Code Federal Regulations Part 99.15. The District will inform the complainant if it cannot
2 maintain confidentiality.

3
4 Investigation Steps: The District will fairly and objectively investigate harassment and discrimination
5 complaints. Investigations will be conducted in a dignified and respectful manner. Employees designated
6 to serve as investigators under this policy shall have adequate training on what constitutes sexual
7 harassment, including sexual violence, and that they understand how the District's grievance procedures
8 operate. The investigator may not have any real or perceived conflicts of interest and must be able to
9 investigate the allegations impartially.

10
11 Investigators will use the following steps: interviewing the complainant(s); interviewing the accused
12 individual(s); identifying and interviewing witnesses and evidence identified by each party; identifying and
13 interviewing any other witnesses, if needed; reminding all individuals interviewed of the District's no-
14 retaliation policy; considering whether any involved person should be removed from the campus pending
15 completion of the investigation; reviewing personnel/academic files of all involved parties; reach a
16 conclusion as to the allegations and remedial action; and see that all recommended action is carried out
17 in a timely fashion. When the District evaluates the complaint, it shall do so using a preponderance of the
18 evidence standard. Thus, after considering all the evidence it has gathered, the District will decide
19 whether it is more likely than not that discrimination or harassment has occurred.

20
21 Timeline for Completion: The District will undertake its investigation promptly and swiftly as possible. To
22 that end, the investigator shall complete the above steps, and prepare a written report within 90 days of
23 the District receiving the complaint.

24
25 Cooperation Encouraged: All students and employees are expected to cooperate with a District
26 investigation into allegations of harassment or discrimination. Lack of cooperation impedes the ability of
27 the District to investigate thoroughly and respond effectively. However, lack of cooperation by a
28 complainant or witnesses does not relieve the District of its obligation to investigate. The District will
29 conduct an investigation if it is discovered that harassment is, or may be occurring, with or without the
30 cooperation of the alleged victim(s) and regardless of whether a complaint is filed.

31 32 Written Report

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

- 35 • A description of the circumstances giving rise to the Formal Complaint;
- 36 • A summary of the statement provided by each witness interviewed by the investigator;
- 37 • An analysis of relevant evidence collected during the course of the investigation;
- 38 • A specific finding as to whether there is reasonable cause to believe that discrimination,
39 harassment, or retaliation occurred with respect to each allegation in the complaint; and
- 40 • Any other information deemed appropriate by the District.

41 42 Confidentiality of the Process

43 Investigations are best conducted within a confidential climate. Therefore, the District does not reveal
44 information about ongoing investigations except as necessary to fulfill its legal obligations. The District
45 will keep the investigation confidential to the extent possible, but it cannot guarantee absolute
46 confidentiality because release of some information on a "need-to-know-basis" is essential to a thorough
47 investigation and to protect the rights of accused students and employees during the investigation process
48 and any ensuing discipline.

49 50 Administrative Determination

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48

- In any case not involving employment discrimination, within 90 days of receiving a complaint, the District shall complete its investigation and forward a copy of the investigative report to the State Chancellor, a copy or summary of the report to the complainant, and written notice setting forth all of the following to both the complainant and the Chancellor:
 - The determination of the Chancellor as to whether there is reasonable cause to believe discrimination occurred with respect to each allegation in the complaint;
 - A description of actions taken, if any, to prevent similar problems from occurring in the future;
 - The proposed resolution of the complaint; and
 - The complainant's right to appeal to the District governing Board and the Chancellor.

- 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 to the complainant, and written notice setting forth all the following to the complainant:
 - The determination of the Chancellor as to whether there is reasonable cause to believe discrimination occurred with respect to each allegation in the complaint;
 - A description of actions taken, if any, to prevent similar problems from occurring in the future;
 - The proposed resolution of the complaint; and
 - The complainant's right to appeal to the District governing Board and to file a complaint with Department of Fair Employment and Housing or the U.S Equal Employment Opportunity Commission.

Discipline and Corrective Action

If harassment, discrimination or retaliation occurred in violation of the policy or procedure, the District shall take disciplinary action against the accused and any other remedial action it determines to be appropriate. The action will be prompt, effective, and commensurate with the severity of the offense. Remedies for the complainant might include, but are not limited to:

- providing an escort to ensure that the complainant can move safely between classes and activities;
- ensuring that the complainant and alleged perpetrator do not attend the same classes or work in the same work area;
- preventing offending third parties from entering campus;
- providing counseling services or a referral to counseling services;
- providing medical services or a referral to medical services;
- providing academic support services, such as tutoring;
- arranging for a student-complainant to re-take a course or withdraw from a class without penalty, including ensuring that any changes do not adversely affect the complainant’s academic record; and

- reviewing any disciplinary actions taken against the complainant to see if there is a causal connection between the harassment and the misconduct that may have resulted in the complainant being disciplined.

If the District imposes discipline, the nature of the discipline will not be communicated to the complainant. However, the District may disclose information about the sanction imposed on an individual who was found to have engaged in harassment when the sanction directly relates to the complainant; for example, the District may inform the complainant that the harasser must stay away from the complainant.

Disciplinary actions against faculty, staff, and students will conform to all relevant statutes, regulations, personnel policies and procedures, including the provisions of any applicable collective bargaining agreement.

The District shall also take reasonable steps to protect the complainant from further harassment, or discrimination, and to protect the complainant and witnesses from retaliation as a result of communicating the complaint or assisting in the investigation.

The District will ensure that complainants and witnesses know how to report any subsequent problems, and should follow-up with complainants to determine whether any retaliation or new incidents of harassment have occurred. The District shall take reasonable steps to ensure the confidentiality of the investigation and to protect the privacy of all parties to the extent possible without impeding the District's ability to investigate and respond effectively to the complaint.

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

Appeals

If the District imposes discipline against a student or employee as a result of the findings in its investigation, the student or employee may appeal the decision using the procedure for appealing a disciplinary decision. For employees these procedures are found in applicable collective bargaining agreements and state statutes. For students the procedures are described in BP 5500 titled Standards of Student Conduct.

If the complainant is not satisfied with the results of the administrative determination, he/she may, within fifteen days, submit a written appeal to the Board of Trustees. The Board shall review the original complaint, the investigative report, the administrative decision, and the appeal. The Board shall issue a final District decision in the matter within 45 days after receiving the appeal. A copy of the decision rendered by the Board shall be forwarded to the complainant and to the State Chancellor's Office. The complainant shall also be notified of his/her right to appeal this decision.

If the Board does not act within 45 days the administrative determination shall be deemed approved and shall become the final decision of the District in the matter.

In any case not involving workplace discrimination, harassment, or retaliation, the complainant shall have the right to file a written appeal with the State Chancellor's Office within thirty days after the Board issued the final District decision or permitted the administrative decision to become final. Such appeals shall be processed pursuant to the provision of Title 5 Section 59350.

1 In any case involving employment discrimination, including workplace harassment, the complainant may,
2 at any time before or after the issuance of the final decision of the District, file a complaint with the
3 Department of Fair Employment and Housing.
4

5 Extension of Time

6 Within 150 days of receiving a formal complaint, the District shall forward to the State Chancellor's Office
7 the original complaint, the investigative report, a copy of the written notice to the complainant setting
8 forth the results of the investigation, a copy of the final administrative decision rendered by the Board or
9 indicating the date upon which the decision became final, and a copy of the notification to the
10 complainant of his/her appeal rights. If, due to circumstances beyond its control, the District is unable to
11 comply with the 150-day deadline for submission of materials, it may file a written request for an
12 extension of time no later than ten days prior to the expiration of the deadline.
13

14 File Retention

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

- 16 • the original complaint;
 - 17 • the investigatory report;
 - 18 • the summary of the report if one is prepared;
 - 19 • the notice provided to the complainant, of the District's administrative determination and
20 his/her right to appeal;
 - 21 • any appeal; and
 - 22 • the District's final decision.
- 23

24 The District will make such documents available to the State Chancellor upon request.
25

26 Where the complaint allegation consists of Sex/Gender Harassment, Discrimination, or Sexual
27 Misconduct, as defined by Title IX, the following applies:
28

29 Complaint Procedure:

30 Where the complaint involves a minor, the District will comply with California mandated reporting
31 requirements.
32

33 All responsible employees are required to report all actual or suspected sexual misconduct to the Title IX
34 Administrator or Campus Coordinator immediately. A responsible employee is any employee who has the
35 authority to take action to redress sexual misconduct, who has been given the duty of reporting incidents
36 of sexual misconduct to the Title IX Administrator or Campus Coordinator, or whom a student or employee
37 could reasonably believe has this authority or duty. The District is on notice if a responsible employee
38 knew, or in the exercise of reasonable care should have known, about the sexual misconduct. All District
39 employees are considered responsible employees.
40

41 Any person may make a complaint by contacting the Title IX Administrator or Campus Coordinator
42 directly. The Title IX Administrator or Campus Coordinator will receive all relevant details about the
43 alleged sexual misconduct reported to the District responsible employee in order to determine what
44 occurred and how to resolve the situation. This includes the names of alleged victim and alleged
45 perpetrator (if known), and the date, time, and location of the alleged sexual misconduct.
46

47 Privileged or Confidential Reporting:

48 Before a student or employee reveals information that he or she may wish to keep confidential, a
49 responsible employee should, whenever possible, ensure that the person making the report understands
50 the employee's obligations to report to the Title IX Administrator or Campus Coordinator and the victim's

1 option to request confidentiality, which the District will take into consideration. Furthermore, the
2 responsible employee should, whenever possible, ensure that the reporting party understands the
3 victim’s ability to share the information confidentiality with designated District employees.
4

5 Professional, licensed, mental health counselors, who provide mental-health counseling to members of
6 the District community, or interns, graduate students, and others supervised by professional licensed
7 counselors, are not required to report any information to the Title IX Administrator or Campus
8 Coordinator. However, the reporting of aggregate, non-identifying, information is encouraged in order
9 for the District to meet its statistical reporting requirements pursuant to the Clery Act.

10
11 Non-professional counselors who work or volunteer in health services, including front desk personnel and
12 student employees in the course of their duties, may maintain confidentiality under certain
13 circumstances. They are not required to report actual or suspected sexual misconduct to the Title IX
14 Administrator or Campus Coordinator in a way that identifies the student without the victim’s consent.
15 (Note that health services employees are mandated by California law to report to local law enforcement
16 if they treat any physical condition that is the result of abusive or assaultive behavior, this includes any
17 type of sexual assault. Therefore, they may keep the information confidential from the campus
18 community but cannot guarantee complete confidentiality.)

19
20 Authority over Parties:

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

26
27 Standard of Proof:

28 The District will use a “preponderance of the evidence” standard of proof in determining whether there
29 has been a violation of this policy. This standard of proof is also known as “more likely than not” standard.
30

31 Upon Receiving the Complaint – Health and Safety:

32 The Title IX Administrator or Campus Coordinator will make an immediate assessment concerning the
33 health and safety of the victim and campus community as a whole. The District will provide the victim
34 with immediate, interim measures necessary to protect his or her health and safety. These immediate,
35 interim measures may include, but are not limited to: *providing an escort to ensure that the victim can
36 move safely between classes, ensuring that the victim and perpetrator do not attend the same classes or
37 work in the same area, preventing offending third parties from entering campus, providing counseling
38 services or a referral to counseling services, providing academic support services, such as tutoring,
39 arranging for a victim to retake a course or withdraw from a course without penalty, including ensuring
40 that any changes do not adversely affect the victims’ academic record, and reviewing any disciplinary
41 actions taken against the victim to see if there is a causal connection between the harassment,
42 discrimination, or retaliation and the misconduct that may have resulted in the victim being disciplined.*
43

44 Where the District determines that there is a substantial threat to the campus community, it will issue a
45 timely warning. The District will issue the warning according to District Administrative Procedures. The
46 District will not to disclose the victim’s name or other identifying information when issuing the warning.
47

48 Communicating that the Conduct is Unwelcome:

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

4
5 Intake and Processing of the Complaint:

6 The Title IX Administrator or Campus Coordinator will not use mediation or any similar process to
7 informally resolve a sexual misconduct complaint.

8
9 Confidentiality:

10 Where the victim requests confidentiality or that the District not conduct an investigation, the District will
11 take all reasonable steps to investigate while honoring the request. Where the victim insists that the
12 District not disclose his or her name or other identifiable information to the alleged perpetrator, the
13 District will inform the victim that its ability to respond will be limited. The District will evaluate this
14 request in the context of its responsibility to provide a safe and nondiscriminatory environment for all
15 employees and students. When weighing a request for confidentiality against the seriousness of the
16 alleged harassment, the Title IX Administrator or Campus Coordinator will take the factors listed above
17 into consideration.

18
19 Fact-Finding Investigation:

20 Where the victim has filed a criminal complaint with local law enforcement, the District will consider what
21 information the District is able to share, pursuant to state and federal law, to ensure that victims are not
22 unnecessarily required to give multiple statements about a traumatic event. The District will continue to
23 conduct its own thorough, reliable, prompt, and impartial investigation. The District will normally
24 complete its sexual misconduct investigation within 60 business days of receiving the complaint, unless
25 extended by the Title IX Administrator or Campus Coordinator for good cause. The Title IX Administrator
26 or Campus Coordinator will notify the victim and accused in writing of the reason for the extension and
27 the projected new timeline.

28
29 The victim and accused will have equal opportunity to present relevant witnesses and other evidence to
30 the District investigator. The District will provide the same opportunities to the victim and accused, for
31 *example* both parties are entitled to an advisor of their choosing to guide and accompany them
32 throughout the campus resolution process. The advisor may be a friend, mentor, family member,
33 attorney or any other supporter a party chooses to advise them who is both eligible and available. People
34 who will be interviewed as witnesses may not serve as advisors. Employees have rights pursuant to
35 collective bargaining agreements, Leadership Team Handbook, and statute that may pertain.

36
37 The parties are entitled to be accompanied by their advisor in all meetings and interviews at which the
38 party is entitled to be present. Advisors should help their advisees for each meeting, and are expected to
39 advise ethically, with integrity and in good faith. The District cannot guarantee equal advisory rights,
40 meaning that if one party selects an advisor who is an attorney but the other party does not, or cannot
41 afford an attorney, the District is not obligated to provide one.

42
43 The results of the fact-finding investigation will be set out in a formal investigative report which will
44 include the requirements listed above and a credibility determination of the victim, accused, and
45 witnesses.

46
47 At any point during the investigation, if it is determined there is no reasonable cause to believe that
48 District policy has been violated, the Vice Chancellor of Human Resources (accused employee
49 investigations), the Title IX Administrator, or Campus Coordinator has the authority to terminate the
50 investigation and end resolution proceedings.

1
2 Where the responding party is found not responsible for the alleged violation(s), the investigation will be
3 closed. Where a violation is found, the District will act to end the discrimination, prevent its recurrence,
4 and remedy its effects on the victim and the District community. All parties will receive written
5 notification of the outcome, to the extent permitted by or mandated by law. In cases involving sexual
6 misconduct, sexual harassment, stalking and/or intimate partner violence, the written notification
7 includes the finding any resulting responsive actions, and the rationale for the decision. This written
8 notification explains appeals options and procedures for appeal. It also describes changes to the results
9 that could occur before the decision is finalized.

10
11 **Reporting to State Chancellor’s Office:**

12 The District considers all sexual misconduct complaints to be formal complaints. The Title IX Administrator
13 must notify the State Chancellor’s Office of any sexual misconduct complaints. Upon completing the
14 investigation, the District shall forward to the Chancellor’s Office a copy of the investigative report and
15 administrative determination and to the complainant a summary of the investigative report and
16 administrative determination.

17
18 **Dissemination of Policy and Procedures**

19 District Policy and Procedures related to harassment will include information that specifically addresses
20 sexual violence. District policy and procedures will be provided to all students, faculty members, members
21 of the administrative staff and members of the support staff, and will be posted on campus and on the
22 District’s website.

23
24 When hired, employees are required to sign that they have received the policy and procedures, and the
25 signed acknowledgment of receipt is placed in each employee’s personnel file. In addition, these policies
26 and procedures are incorporated into the District's course catalogs and orientation materials for new
27 students.

28
29 **Training**

30 The District shall provide at least two hours of classroom or other effective interactive training and
31 education regarding sexual harassment to all supervisory employees. All new supervisory employees
32 must be provided with the training and education within six months of their assumption of a supervisory
33 position. The District shall provide sexual harassment training and education to each supervisory
34 employee once every two years.

35
36 The training and education required by this procedure shall include information and practical guidance
37 regarding the federal and state statutory provisions concerning the prohibition against and the prevention
38 and correction of sexual harassment and the remedies available to victims of sexual harassment in
39 employment. The training and education shall also include practical examples aimed at instructing
40 supervisors in the prevention of harassment, discrimination, and retaliation, and shall be presented by
41 trainers or educators with knowledge and expertise in the prevention of harassment, discrimination, and
42 retaliation. Supervisor’s harassment training must also address potential exposure and liability for
43 employers and individuals, supervisor’s obligation to report sexual harassment, discrimination, and
44 retaliation when they become aware of it, appropriate remedial measures to correct harassing behavior,
45 and a review of “abusive conduct.”

46
47 The District will maintain appropriate records of the training provided, including the names of the
48 supervisory employees trained, the date of training, sign in sheets, copies of all certificates of attendance
49 or completion issued, the type of training provided, a copy of all written or recorded training materials,
50 and the name of the training provider. The District will retain these records for at least two years.

1
2 Training of all staff will be conducted. This includes counselors, faculty, health personnel, coaches, and
3 all staff who regularly interact with students. Training for academic staff should emphasize environmental
4 harassment in the classroom. The District will also provide training to students who lead student
5 organizations.

6
7 In years in which a substantive policy or procedural change has occurred, all District employees will attend
8 a training update or receive a copy of the revised policies and procedures.

9
10 Participants in training programs will be required to sign a statement that they have either understood
11 the policies and procedures, their responsibilities, and their own and the District's potential liability, or
12 that they did not understand the policy and desire further training.

13 Education and Prevention for Students

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

21
22 The education programs will also include information aimed at encouraging students to report incidents
23 of sexual violence to the appropriate District and law enforcement authorities. Since victims or third
24 parties may be deterred from reporting incidents if alcohol, drugs, or other violations of District or campus
25 rules were involved, the District will inform students that the primary concern is for student safety and
26 that use of alcohol or drugs never makes the victim at fault for sexual violence. If other rules are violated,
27 the District will address such violations separately from an allegation of sexual violence.

28 **References:**

29
30 Education Code Sections [212.5](#), [66281.5](#) and [67386](#); Government Code Section [12950.1](#); Title 5 Sections
31 [59320](#), [59324](#), [59326](#), [59328](#), and [59300 et seq.](#); Title 2 Section [11024](#); [34 Code of Federal Regulations](#)
32 [Section 106.8\(b\)](#)

33
34
35 **Procedure Last Revised:** August 26, 2016

36 **Last Reviewed:** August 26, 2016