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|------------------|-------------------------------------|-------------------------------|-------------------------------------|
| Policy Change | <input type="checkbox"/> | Subject Matter Area Review | <input checked="" type="checkbox"/> |
| Procedure Change | <input type="checkbox"/> | Constituency Group Review | <input checked="" type="checkbox"/> |
| New Policy | <input checked="" type="checkbox"/> | District Council | <input type="checkbox"/> |
| New Procedure | <input checked="" type="checkbox"/> | Board 1 st Reading | <input type="checkbox"/> |
| | | Board 2 nd Reading | <input type="checkbox"/> |

KEY:
BOLD= new language
~~strikethrough=~~ delete language

Comments:
 Updates provided by Compliance using ATIXA/CCLC language to inform recommended revisions
[CCLC Fall 2015 Update](#)

Referred to:

Edited:
 12/16/15

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Policy

3435 Discrimination and Harassment 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

References:

Adopted:

Last Reviewed:

Administrative Procedure

3435 Discrimination and Harassment Investigations

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

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

The District shall promptly investigate every complaint 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.

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

Oversight of Complaint Procedure: The Vice Chancellor of Human Resources is the “responsible District officer” charged with receiving complaints of discrimination or harassment committed by employees, and coordinating their investigation. The Vice President of Student Services is responsible for receiving complaints of harassment or discrimination committed by students, and coordinating their investigation.

The actual investigation of complaints may be assigned to other staff or to outside persons or organizations under contract with the District.

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

Where to File a Complaint: A student, employee, or third party who believes he/she has been discriminated against or harassed in violation of this policy and procedure may make a complaint orally, via email, or in writing, within one year of the date of the alleged harassment or the date on which the reporting party knew or should have known of the facts underlying the complaint.

If a reporting party 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 State Chancellor’s Office. These approved forms are available on the District’s website or at the State Chancellor’s website.

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

- 2 • **The Vice Chancellor of Human Resources;**
- 3 • **The Vice President of Student Services;**
- 4 • **The District Title IX Administrator or College Campus Coordinators (sex/gender harassment,**
- 5 **discrimination, or sexual misconduct) and/or**
- 6 • **The State Chancellor's Office.**

7

8 **Employee reporting parties shall be notified that they may file employment discrimination complaints**

9 **with the U.S. Equal Employment Opportunity Commission (EEOC) or the Department of Fair**

10 **Employment and Housing (DFEH).**

11 **Complaints filed with the EEOC and/or the DFEH should be forwarded to the State Chancellor's Office.**

12

13

14 **Student reporting parties shall be notified that they may file a complaint with the Office of Civil Rights**

15 **of the U.S. Department of Education. All reporting parties should be advised that they have a right to**

16 **file a complaint with local law enforcement. The District must investigate even if the reporting party**

17 **files a complaint with local law enforcement. In addition, the District should ensure that reporting**

18 **parties are aware of any available resources, such as counseling, health, and mental health services.**

19 **The Vice Chancellor of Human Resources shall also notify the State Chancellor's Office of the**

20 **complaint.**

21

22 **Any District employee who receives a harassment or discrimination complaint shall notify the Vice**

23 **Chancellor of Human Resources or the District Title IX Administrator immediately.**

24

25 **Intake and Processing of the Complaint: Upon initial receipt of a harassment or discrimination**

26 **complaint, the District will offer interim steps to protect a reporting party from coming into contact**

27 **with the responding party, especially if the reporting party is a victim of sexual violence. The District**

28 **should notify the reporting party of his or her options to avoid contact with the responding party and**

29 **allow students to change academic situations as appropriate. When taking steps to separate the**

30 **reporting party and responding party, the District shall minimize the burden on the reporting party.**

31

32 **Informal Resolution: Before pursuing the Formal Resolution Process, every reasonable effort should**

33 **be made to constructively resolve conflict with students, faculty, staff, or administrators. Whenever**

34 **possible and safe, the problematic behavior, conflict or misconduct should first be discussed by the**

35 **impacted person and the person engaged in the problematic behavior, conflict or misconduct.**

36

37 **Human Resources, the Title IX Administrator, or College Student Services will facilitate such**

38 **conversations, upon request, and monitor them for safety.**

39

40 **If informal efforts are unsuccessful, the formal resolution process may be initiated. Either party has**

41 **the right to end the informal process and begin the formal process at any time prior to resolution.**

42

43 **Formal Resolution Process for Reports of Misconduct by Employees: The Title IX Administrator and**

44 **the Office of Human Resources are designated to formally investigate reports or notice of**

45 **discrimination and/or harassment by employees, to address inquiries and coordinate the District's**

46 **compliance efforts regarding employee-related reports.**

47

48 **Any member of the community can provide notice of discrimination and/or harassment in person, by**

49 **phone, via email or in writing to Human Resources or the Title IX Administrator. The District strongly**

50 **encourages submission of written reports.**

The following are recommended elements of a report:

- Clear and concise description of the alleged incident(s) (e.g.: when and where it occurred);
- Any supporting documentation and evidence;
- Clear demonstration of all informal efforts, if any, to resolve the issue(s) with the person involved and the person's supervisor;
 - This includes names, dates and times of attempted or actual contact along with a description of the discussion and the manner of communication made in the course of each effort;
 - If contacting the person involved and/or the supervisor is impracticable, the reporting party should state the reasons why;
- The desired remedy sought;
- Name and all contact information for the reporting party;
- Signed by the reporting party.

If the reporting party wishes to pursue a formal resolution or if the District, based on the alleged policy violation, wishes to pursue a formal resolution, then Human Resources or the Title IX Administrator appoints trained investigator(s), to conduct the investigation. Investigations of sex/gender harassment or discrimination are completed expeditiously, normally within 10-14 business days of the completion of the preliminary inquiry by the Title IX Administrator. Investigations may take longer when, for example, initial reports fail to provide direct first-hand information, when an investigator outside the District is employed, or in complex situations.

The District's resolution will not typically be altered or precluded on the grounds that civil or criminal charges involving the same incident have been filed or that charges have been dismissed or reduced. However, the District may undertake a short delay (several days to weeks) in its investigation or resolution process, to comply with a law enforcement request for cooperation. The District will promptly resume its investigation and processes once notified by law enforcement that the initial evidence collection process is complete.

All investigations will be thorough, reliable and impartial, and will entail interviews with all relevant parties and witnesses, obtaining available evidence and identifying sources of expert information, if necessary.

The investigator will take the following steps (not necessarily in order):

- In coordination with campus partners (e.g.: the Title IX Campus Coordinator, Student Services, Department Dean), initiate any necessary remedial actions;
- Determine the identity and contact information of the reporting party;
- Ensure that any needed interim measures have been offered and implemented (e.g.: no contact orders, class changes, counseling services);
- Identify the exact policies allegedly violated;
- Conduct an immediate initial inquiry to determine if there is reasonable cause to charge the responding party, and what policy violations should be alleged as part of the charge;
 - If there is insufficient evidence to support reasonable cause, the report should be closed with no further action;
- Meet with the reporting party to finalize their statement, and
- Prepare the notice of charges on the basis of the initial inquiry;
- Commence a thorough, reliable and impartial investigation by developing a strategic investigation plan, including a witness list, evidence list, intended timeframe, and order of

1 interviews for all witnesses and the responding party, who may be given notice prior to or at
2 the time of the interview;

- 3 • Complete the investigation promptly, and without unreasonable deviation from the intended
4 timeline of 10-14 business days;
- 5 • Provide regular updates to both the reporting and responding parties, as appropriate,
6 throughout the investigation;
- 7 • Share the draft report with the parties and allow them 3 business days to provide clarifying
8 comments before the report is finalized;
- 9 • Make a finding, based on a preponderance of the evidence (whether a policy violation is more
10 likely than not)
- 11 • Present the complete investigation and findings to the appropriate administrator so they may
12 determine sanctions, in conjunction with Human Resources, and share them with the
13 responding and reporting parties.

14
15 At any point during the investigation, if it is determined there is no reasonable cause to believe that
16 District policy has been violated, the Vice Chancellor of Human Resources, or the Title IX
17 Administrator has authority to terminate the investigation and end resolution proceedings.
18

19 Where the responding party is found not responsible for the alleged violation(s), the investigation will
20 be closed. Where a violation is found, the District will act to end the discrimination, prevent its
21 recurrence, and remedy its effects on the victim and the District community. All parties will receive
22 written notification of the outcome, to the extent permitted by or mandated by law. In cases
23 involving sexual misconduct, sexual harassment, stalking and/or intimate partner violence, the
24 written notification includes the finding, any resulting responsive actions, and the rationale for the
25 decision. This written notification explains appeals options and procedures for appeal. It also
26 describes changes to the results that could occur before the decision is finalized.
27

28 **Formal Resolution Process for Reports of Misconduct by Students:** The Student Conduct Officer, in
29 concert with the Title IX Administrator and/or Campus Coordinator (for sex/gender harassment,
30 discrimination and sexual misconduct complaints), are designated to formally investigate reports of
31 discrimination and/or harassment by students, to address inquiries and to coordinate the District's
32 compliance efforts regarding reports of misconduct by students, regardless of the District role of the
33 reporting party, who may be another student, faculty, staff, guest or visitor.
34

35 Notice of a formal report can be made in person, by phone, via email or in writing to the Student
36 Conduct Officer, Title IX Administrator or Campus Coordinator. Upon receipt of a report, the Student
37 Conduct Officer will confer with the Title IX Administrator or Campus Coordinator on interim action,
38 accommodations for the reporting party (at no cost to the reporting party where possible), or other
39 necessary remedial short-term actions.
40

41 If the reporting party wishes to pursue a formal resolution or if the District, based on the alleged
42 policy violation, wishes to pursue a formal resolution, then the Student Conduct Officer or Title IX
43 Administrator or Campus Coordinator appoints trained investigators, to conduct the investigation.
44 Investigations of sex/gender harassment, discrimination and sexual misconduct are completed
45 expeditiously, normally within 10-14 business days of notice to the Title IX Administrator or Campus
46 Coordinator. These and other types of harassment and discrimination investigations may take longer
47 depending on their nature or complexity.
48

49 The District's resolution will not typically be altered or precluded on the grounds that civil or criminal
50 charges involving the same incident have been filed or that charges have been dismissed or reduced.

1 However, the District may undertake a short delay (several days to weeks) in its investigation or
2 resolution process, to comply with a law enforcement request for cooperation. The District will
3 promptly resume its investigation and processes once notified by law enforcement that the initial
4 evidence collection process is complete.

5
6 All investigations will be thorough, reliable and impartial, and will entail interviews with all relevant
7 parties and witnesses, obtaining available evidence and identifying sources of expert information, if
8 necessary.

9
10 The investigators will take the following steps (not necessarily in order):

- 11
- 12 ● In coordination with campus partners (e.g.: Student Conduct Officer, the Title IX Campus
13 Coordinator), initiate any necessary remedial actions;
- 14 ● Determine the identity and contact information of the reporting party;
- 15 ● Identify the exact policies allegedly violated;
- 16 ● Conduct an immediate initial inquiry to determine if there is reasonable cause to charge the
17 responding party, and what policy violations should be alleged as part of the report;
 - 18 ○ If there is insufficient evidence to support reasonable cause, the inquiry should be
19 closed with no further action;
- 20 ● Meet with the reporting party to finalize their statement and
- 21 ● Prepare the notice of charges on the basis of the initial inquiry;
- 22 ● Commence a thorough, reliable and impartial investigation by developing a strategic
23 investigation plan, including a witness list, evidence list, intended timeframe, and order of
24 interviews for all witnesses and the responding party, who may be given notice prior to or at
25 the time of the interview;
- 26 ● Complete the investigation promptly, and without unreasonable deviation from the intended
27 timeline of 10 business days;
- 28 ● Provide regular updates to both the reporting and responding parties, as appropriate,
29 throughout the investigation;
- 30 ● Share a draft report with the parties and allow them 3 business days to provide clarifying
31 comments before the report is finalized;
- 32 ● Make a finding, based on a preponderance of the evidence (whether a policy violation is more
33 likely than not)
- 34 ● Present the findings to the responding party, who may accept the findings, accept the findings
35 in part and reject them in part, or may reject all findings;
- 36 ● Share the findings and update the reporting party on the status of the investigation and the
37 outcome.

38
39 At any point during the investigation, if it is determined there is no reasonable cause to believe that
40 District policy has been violated, the Student Conduct Officer, Title IX Administrator, or Campus
41 Coordinator has authority to terminate the investigation and end resolution proceedings.

42
43 Where the responding party is found not responsible for the alleged violation(s), the investigation will
44 be closed.

45
46 Where the responding party accepts the finding of the investigation, the Student Conduct Officer will
47 impose appropriate sanctions for the violation. The District will act to end the discrimination, prevent
48 its recurrence, and remedy its effects on the victim and the District community.

1 The parties will receive written notification of the outcome, to the extent permitted or mandated by
2 law. In cases involving sexual misconduct, sexual harassment, stalking and/or intimate partner
3 violence, the written notification includes the finding, any resulting sanctions, and the rationale for
4 the decision. This written notification of final decision explains appeals options and procedures, and
5 any changes to the results that could occur before the decision is finalized.
6

7 In the event that the responding party rejects the findings in part or entirely, the Student Conduct
8 Officer will convene a hearing under its respective procedures (See AP 5500) to determine whether
9 the responding party is in violation of the contested aspects of the report. At the hearing, the findings
10 of the investigation will be admitted, but are not binding on the decider(s) of fact. The investigator(s)
11 will present the facts of the case and give evidence. The hearing will determine whether it is more
12 likely than not that the responding party violated the policies forming the basis of the charge. The
13 goal of the hearing is to provide an equitable resolution via an equitable process, respecting the civil
14 and legal rights of all participants.
15

16 The Student Conduct Hearing Panel has final decision-making authority with regard to formal reports,
17 subject to appeal. Where the responding party is found in violation as the result of a hearing, the
18 Student Conduct Hearing Panel will impose appropriate sanctions for the violation. The District will
19 act to end the discrimination, prevent its recurrence, and remedy its effects on the victim and the
20 District community. Appeal proceedings as described below apply to all parties to the report. The
21 parties will receive written notification of the outcome of the hearing, to the extent permitted or
22 mandated by law. In cases involving sexual misconduct, sexual harassment, stalking and/or intimate
23 partner violence, the written notification includes the finding, any resulting sanctions, and the
24 rationale for the decision. This written notification of final decision explains appeals options and
25 procedures, and any changes to the results that could occur before the decision is finalized.
26

27 **Participation of Advisors in the Resolution Process:** All parties are entitled to an advisor of their
28 choosing to guide and accompany them throughout the campus resolution process. The advisor may
29 be a friend, mentor, family member, attorney or any other supporter a party chooses to advise them
30 who is both eligible and available. People who will be interviewed as witnesses may not serve as
31 advisors.
32

33 The parties are entitled to be accompanied by their advisor in all meetings and interviews at which
34 the party is entitled to be present, including intake, interviews, hearings and appeals. Advisors should
35 help their advisees prepare for each meeting, and are expected to advise ethically, with integrity and
36 in good faith. The District cannot guarantee equal advisory rights, meaning that if one party selects an
37 advisor who is an attorney, but the other party does not, or cannot afford an attorney, the District is
38 not obligated to provide one. Additionally, responding parties may wish to contact organizations such
39 as:

- 40 • FACE (<http://www.facecampusequality.org>)
- 41 • SAVE (<http://www.saveservices.org>),

42
43 **Reporting parties may wish to contact organizations such as:**

- 44 • The Victim Rights Law Center (<http://www.victimrights.org>), or the
- 45 • The National Center for Victims of Crime (<http://www.victimsofcrime.org>), which maintains
46 the Crime Victim's Bar Association.
47

48
49 All advisors are subject to the same campus rules, whether they are attorneys or not. Advisors may
50 not present on behalf of their advisee in a meeting, interview or hearing and should request or wait

1 for a break in the proceeding if they wish to interact with campus officials. Advisors may confer
2 quietly with their advisees as necessary, as long as they do not disrupt the process. For longer or
3 more involved discussions, the parties and their advisors should ask for breaks or step out of meetings
4 to allow for private conversation. Advisors will typically be given a timely opportunity to meet in
5 advance of any interview or hearing with the administrative officials conducting that interview or
6 meeting. This pre-meeting will allow advisors to clarify any questions they may have, and allows the
7 District an opportunity to clarify the role the advisor is expected to take.

8
9 Advisors are expected to refrain from interference with the District investigation and resolution. Any
10 advisor who steps out of their role in any meeting under the campus resolution process will be
11 warned once and only once. If the advisor continues to disrupt or otherwise fails to respect the limits
12 of the advisor role, the advisor will be asked to leave the meeting. When an advisor is removed from
13 a meeting, that meeting will typically continue without the advisor present. Subsequently, the Title IX
14 Administrator or Campus Coordinator will determine whether the advisor may be reinstated, may be
15 replaced by a different advisor, or whether the party will forfeit the right to an advisor for the
16 remainder of the process.

17
18 The District expects that the parties will wish the District to share documentation related to the
19 allegations with their advisors. The District provides a consent form that authorizes such sharing. The
20 parties must complete this form before the District is able to share records with an advisor. The
21 parties are not otherwise restricted from discussing and sharing information relating to allegations
22 with others who may support them or assist them in preparing and presenting. Advisors are expected
23 to maintain the privacy of the records shared with them by the District. These records may not be
24 shared with 3rd parties, disclosed publicly, or used for purposes not explicitly authorized by the
25 District. The District may seek to restrict the role of any advisor who does not respect the sensitive
26 nature of the process or who fails to abide by the District's privacy expectations.

27
28 The District expects an advisor to adjust their schedule to allow them to attend District meetings
29 when scheduled. The District does not typically change scheduled meetings to accommodate an
30 advisor's inability to attend. The District will, however make provisions to allow an advisor who
31 cannot attend in person to attend a meeting by telephone, video and/or virtual meeting technologies
32 as may be convenient and available.

33
34 A party may elect to change advisors during the process, and is not locked into using the same advisor
35 throughout.

36
37 Where an employee is a member of a union and entitled to a union representative in the process, that
38 employee may be accompanied by the union representative as their advisor or may choose an advisor
39 in addition to their union representative. In such cases, the other party may have two advisors as
40 well.

41
42 The parties must advise the investigators of the identity of their advisor at least 2 business days
43 before the date of their first meeting with investigators. The parties must provide subsequent timely
44 notice to the investigators if they change advisors at any time. No audio or video recording of any
45 kind other than as required by institutional procedure is permitted during meetings with campus
46 officials.

47
48 Requesting an Appeal: In the event that the responding party accepts the findings of the
49 investigation, those findings cannot be appealed. Sanctions imposed by the Student Conduct Hearing

1 Panel post-investigation can be appealed by any party according to the grounds, below. Post-hearing,
2 any party may appeal the findings and/or sanctions only under the grounds described, below.
3

4 All sanctions imposed by the original hearing body will be in effect during the appeal. A request may
5 be made to the Vice President of Student Services to delay implementation of the sanctions until the
6 appeal is decided, but the presumptive stance of the institution is that the sanctions will go into effect
7 immediately. Graduation, study abroad, internships/ externships, etc. do NOT in and of themselves
8 constitute exigent circumstances, and students may not be able to participate in those activities
9 during their appeal. In cases where the appeal results in reinstatement to the District or resumption of
10 privileges, all reasonable attempts will be made to restore the student to their prior status,
11 recognizing that some opportunities lost may be irreparable in the short term.
12

13 The decision of the Student Conduct Hearing Panel may be appealed by petitioning the Vice President
14 of Student Services in cases where the imposed sanctions are long-term suspension or expulsion. Any
15 party who files an appeal request must do so in writing to the Vice President of Student Services
16 within 5 business days of receiving the written decision, for a review of the decision or the sanctions
17 imposed. The written decision will be provided in person and/or mailed to the local mailing address of
18 the respective party as indicated in District records and emailed to the parties' District-issued email
19 accounts. If there is no local address on file, mail will be sent to the parties' permanent address. Once
20 received in person, mailed or emailed, the notice of decision will be deemed presumptively delivered.
21

22 The Vice President of Student Services will share the appeal request with the other party (e.g., if the
23 responding party files an appeal, the appeal is shared with the reporting party, who may also wish to
24 file a response and/or bring their own appeal on separate grounds; this response or appeal will be
25 shared with the initial appealing party). Based on the written requests/responses or on interviews as
26 necessary, the Vice President of Student Services will send a letter of outcome for the appeal to all
27 parties. The Vice President of Student Services can take one of three possible actions. The appeal may
28 dismiss an appeal request as untimely or ineligible, may grant an appeal and remand the finding
29 and/or sanction for further investigation or reconsideration at the hearing level, or may modify a
30 sanction.
31

32 The original finding and sanction will stand if the appeal request is not timely or substantively eligible,
33 and that decision is final. The party requesting appeal must show clear error as the original finding
34 and/or a compelling justification to modify a sanction, as both finding and sanction are presumed to
35 have been decided reasonably and appropriately during the original hearing.
36

37 The ONLY grounds for appeal are as follows:
38

- 39 1. A procedural error occurred that significantly impacted the outcome of the hearing (e.g.
40 substantiated bias, material deviation from established procedures, etc.);
- 41 2. To consider new evidence, unavailable during the original hearing or investigation, that could
42 substantially impact the original finding or sanction. A summary of this new evidence and its
43 potential impact must be included;
- 44 3. The sanctions imposed fall outside the range of sanctions designated for this offense and the
45 cumulative conduct history of the responding party.

46 If remanded to re-open the investigation, the results of a revised investigation can be subsequently
47 forwarded for reconsideration at the hearing level, at the discretion of Vice President of Student
48 Services. If the appeal remands to the hearing body for review, the reconsideration of the hearing
49 body is not appealable.

1
2 In rare cases where a procedural error cannot be cured by the original hearing officers (as in cases of
3 bias), the Vice President of Student Services may order a new hearing with a new body of hearing
4 officers. The results of a reconvened hearing cannot be appealed. The results of a new hearing can be
5 appealed, once, on any of the three applicable grounds for appeals.
6

7 **The procedures governing the hearing of appeals include the following:**

- 8 • All parties should be timely informed of the status of requests for appeal, the status of the
9 appeal consideration, and the results of the appeal decision;
- 10 • Every opportunity to return the appeal to the original hearing body for reconsideration
11 (remand) should be pursued;
- 12 • Appeals are not intended to be full re-hearings of the allegation (de novo). In most cases,
13 appeals are confined to a review of the written documentation or record of the original
14 hearing, and pertinent documentation regarding the grounds for appeal;
- 15 • Appeals decisions are to be deferential to the original hearing body, making changes to
16 the finding only where there is clear error and to the sanction only if there is a compelling
17 justification to do so;
- 18 • An appeal is not an opportunity for appeals officers to substitute their judgment for that
19 of the original hearing body merely because they disagree with its finding and/or
20 sanctions.
- 21 • Sanctions imposed are implemented immediately unless the Vice President of Student
22 Services stays their implementation in extraordinary circumstances, pending the outcome
23 of the appeal.
- 24 • The Vice President of Student Services will typically render a written decision on the
25 appeal to all parties within 5 business days from hearing of the appeal. The Vice President
26 of Student Services' decision to deny an appeal request is final.

27
28 **Confidentiality:** As set forth above, where the reporting party opts for an informal resolution, the
29 Vice Chancellor of Human Resources, or Title IX Administrator or designee may limit the scope of the
30 investigation, as appropriate. The District will keep the investigation confidential to the extent
31 possible, but cannot guarantee absolute confidentiality because release of some information on a
32 "need-to-know-basis" is essential to a thorough investigation. When determining whether to
33 maintain confidentiality, the District may weigh the request for confidentiality against the following
34 factors: the seriousness of the alleged harassment; the reporting party's age; whether there have
35 been other harassment complaints about the same individual; and the responding party's rights to
36 receive information about the allegations if the information is maintained by the District as an
37 "education record" under the Family Educational Rights and Privacy Act (FERPA), 20 U.S. Code Section
38 1232g; 34 Code Federal Regulations Part 99.15. The District will inform the reporting party if it cannot
39 maintain confidentiality.
40

41 **Timeline for Completion:** The District will undertake its investigation promptly and swiftly as possible.
42 To that end, the investigator shall complete the above steps, and prepare a written report within 90
43 days of the District receiving the complaint. In cases of sex/gender harassment, discrimination and
44 sexual misconduct the entire investigation from the receipt of the complaint to final resolution should
45 normally be completed within 60 business days.
46

47 **Discipline and Corrective Action**

48 If harassment, discrimination and/or retaliation occurred in violation of the policy or procedure, the
49 District shall take disciplinary action against the responding party 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 reporting party might include, but are not limited to:

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

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.

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

Appeals

If the District imposes discipline against a student or employee as a result of the findings in its investigation, the student or employee may appeal the decision using the procedure for appealing a disciplinary decision.

If the reporting party 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 reporting party and to the State Chancellor's Office. The reporting party 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.

The reporting party 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.

In any case involving employment discrimination, including workplace harassment, the reporting party may, at any time before or after the issuance of the final decision of the District, file a complaint with the Department of Fair Employment and Housing. In such cases, the reporting party may also file

1 a petition for review with the State Chancellor’s Office within thirty days after the Governing Board
2 issues the final decision or permits the administrative decision to become final.

3
4 Within 150 days of receiving a formal complaint, the District shall forward to the State Chancellor’s
5 Office the original complaint, the investigative report, a copy of the written notice to the reporting
6 party setting forth the results of the investigation, a copy of the final administrative decision rendered
7 by the Board or indicating the date upon which the decision became final, and a copy of the
8 notification to the reporting party of his/her appeal rights. If, due to circumstances beyond its
9 control, the District is unable to comply with the 150-day deadline for submission of materials, it may
10 file a written request for an extension of time no later than ten days prior to the expiration of the
11 deadline.

12
13 **Training**

14 Personnel tasked with implementing these procedures, (e.g.: Title IX Administrator, Campus
15 Coordinators, investigators, human resources employees, hearing officers, appellate officers, etc.) will
16 be trained at least annually. This training will include, but is not limited to: how to appropriately
17 remedy, investigate, render findings and determine appropriate sanctions in reference to harassment
18 and discrimination allegations; the District’s harassment and discrimination policies and procedures;
19 confidentiality and privacy; and applicable laws, regulations and federal regulatory guidance.

20
21 **Special Resolution Process Provisions**

22
23 **a. District-initiated proceedings**

24
25 As necessary, District reserves the right to initiate a report and to initiate resolution proceedings
26 without a formal report or participation by the victim of misconduct.

27
28 **b. Notification of outcomes**

29
30 The outcome of a campus hearing is part of the education record of the responding party, and is
31 protected from release under a federal law, FERPA. However, the District observes the legal
32 exceptions as follows:

- 33 • Parties to non-consensual sexual contact/intercourse, sexual exploitation, sexual harassment,
34 stalking, and intimate partner violence incidents have an absolute right to be informed of the
35 outcome, essential findings/rationale, and any sanctions that may result, in writing, without
36 condition or limitation, and without substantial delay between notifications to each party.
- 37 • The District may release publicly the name, nature of the violation and the sanction for any
38 student who is found in violation of a District policy that is a “crime of violence,” including:
39 arson, burglary, robbery, criminal homicide, sex offenses, assault,
40 destruction/damage/vandalism of property, intimate partner violence, stalking and
41 kidnapping/abduction. In doing so, the District will not release any information that could
42 lead to the identification of the reporting party.

43
44 **c. Past sexual history/character**

45 The past sexual history or sexual character of a party will not be admissible by the other party in
46 the investigation or hearing unless such information is determined to be highly relevant by the
47 Chair, pertaining only to past or subsequent interactions between the parties that offer context.
48 All such information sought to be admitted will be presumed irrelevant, and any request to
49 overcome this presumption by the parties must be reviewed in advance of the hearing by the Vice

1 **President of Student Services. While previous conduct violations by the responding party are not**
2 **generally admissible as information about the present allegation, the Vice President of Student**
3 **Services may supply previous reports of good faith allegations and/or findings to the investigators**
4 **and the hearing officers to consider as evidence of pattern and/or predatory conduct.**

5
6 **d. Witness participation in an investigation**

7
8 **Witnesses are expected to cooperate with and participate in the District's investigation. Any**
9 **witness who declines to participate in or cooperate with an investigation will not be permitted to**
10 **offer evidence or testimony later in a hearing. Witnesses may provide written statements in lieu**
11 **of interviews during the investigation and may be interviewed remotely by phone, Skype (or**
12 **similar technology), if they cannot be interviewed in person. Parties who elect not to participate**
13 **in the investigation initially may contact the investigator(s) later and will have the opportunity to**
14 **offer evidence prior the hearing and/or appeal stages of the process, though failure to offer**
15 **evidence prior to an appeal does not constitute grounds for appeal on the basis of new evidence.**

16
17 **e. Investigator / Hearing Panel Hybrid model investigations**

18
19 **For investigations into complaints of harassment and/or discrimination, no testimony from**
20 **reporting parties, responding parties, or witnesses are provided to the hearing officer or panel.**
21 **Investigators assigned to conduct these investigations thoroughly and impartially interview all**
22 **parties and witnesses, collect evidence and analyze all relevant information associated with the**
23 **complaint. All testimony in such matters is provided exclusively by the investigators to the**
24 **hearing officer or panel. The investigators will provide the full results of the investigation to**
25 **include all interview statements obtained and all evidence/facts collected, allowing the hearing**
26 **panel to evaluate the facts of the complaint without requiring the alleged victim to testify in the**
27 **physical presence of the responding party. While these options are intended to help make the**
28 **reporting party more comfortable, they are not intended to work to the disadvantage of the**
29 **responding party.**

30
31 **f. Conflicts of interest and bias**

32
33 **The District is committed to ensuring that its resolution processes (e.g.: investigation, hearing,**
34 **appeal, etc.) are free from actual or perceived bias or conflicts of interest that would materially**
35 **impact the outcome. Any party who feels that there is actual or perceived bias or conflict of**
36 **interest that would materially impact the outcome may submit a written petition for the person's**
37 **removal from the process. The petition should include specifics as to the actual or perceived bias**
38 **or conflict of interest, as to why the petitioner believes the bias or conflict could materially impact**
39 **the outcome. When the allegation involves a responding party who is an employee, petitions**
40 **should be submitted promptly to the Vice Chancellor of Human Resources. When the allegation**
41 **involves a responding party who is a student, petitions should be submitted promptly to the Chief**
42 **Student Conduct Officer. Such petitions may also be made to the Title IX Administrator, or to the**
43 **College president in the event that the potential conflict or bias involves the Title IX**
44 **Administrator.**

45
46 **g. Recordkeeping**

47
48 **In implementing these procedures, records of all allegations, investigations, and resolutions will**
49 **be kept by Human Resources, the Student Conduct Officers, and/or the Title IX Administrator**
50 **indefinitely in electronic databases.**

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References:

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

Procedure Last Revised:

Last Reviewed: