



## **Policies Covering:**

- Equal Employment Opportunity, Nondiscrimination and Commitment to Diversity
- Equal Employment Opportunity Plan Policy Statement
- Prohibition of Harassment and Prohibition of Sexual Harassment under Title IX
- Access for Persons with Disabilities (3410, 3420, 3435, 3440)
- Drug-Free Environment & Drug Prevention Program
- Non-Smoking Areas
- Computer and Network Use
- Family Medical Leave Act

To comply with requirements, Napa Valley Community College District has gathered the attached information which is given to new employees upon hiring and to all employees annually. Distributing this information satisfies compliance requirements and gets critical information out to the campus community.

Please take a few minutes to review the enclosed policies and regulations that apply to all Napa Valley College employees. Additional board policies and accompanying administrative regulations are available on the college website and in the Office of the President.

If you have any questions, please contact:

Office of Human Resources, Training & Development  
McPherson Administration Building, Room 1544  
(707) 256-7100



Book	Board Policies
Section	Chapter 3 - General Institution
Title	Equal Employment Opportunity
Code	BP 3420
Status	Active
Adopted	March 23, 2003
Last Revised	July 18, 2024

**Board Policy**  
**Chapter 3 - General Institution**

**BP 3420**

**EQUAL EMPLOYMENT OPPORTUNITY**

The Board of Trustees supports the intent set forth by the California Legislature to assure that effort is made to build a community in which opportunity is equalized, and community colleges foster a climate of acceptance, with the inclusion of faculty and staff from a wide variety of backgrounds. It agrees that diversity in the academic environment fosters cultural awareness, mutual understanding and respect, harmony and respect, and suitable role models for all students. The Board of Trustees therefore commits itself to promote the total realization of equal employment through a continuing equal employment opportunity program. Equal employment opportunity includes not only a process for equal opportunity in hiring, but also practices and processes that create inclusive, respectful work environments.

The Superintendent/President shall develop, for review and adoption by the Board of Trustees, a plan for equal employment opportunity that complies with the Education Code and Title 5 requirements as modified or clarified by judicial interpretation from time to time.

Legal [ACCJC Accreditation Standard III.A.12](#)  
[Title 5 Sections 53000 et seq.](#)  
[Education Code Sections 87100 et seq](#)

Cross References [BP 3410 - Nondiscrimination](#)  
[BP 7100 - Commitment to Diversity](#)  
[AP 7100 - Commitment to Diversity](#)



Book	Administrative Procedures
Section	Chapter 3 - General Institution
Title	Equal Employment Opportunity
Code	AP 3420
Status	Active
Adopted	March 13, 2020
Last Revised	May 14, 2024

**Administrative Procedure  
Chapter 3 - General Institution**

**AP 3420**

**EQUAL OPPORTUNITY EMPLOYMENT**

*The EEO Plan is a District-wide, written plan that implements the District's EEO Program, includes the definitions contained in Title 5 Section 53001 and must:*

- Be developed in collaboration with the District's Equal Employment Opportunity Advisory Committee;
- Be reviewed and adopted at a regular meeting of the governing board where it is agendaized as a separate action item and not part of the consent agenda;
- Cover a period of three years, after which a new or revised plan shall be adopted; and
- Be submitted to the California Community Colleges Chancellor's Office at least 90 days prior to its adoption. Comments received from the California Community Colleges Chancellor's Office on the proposed plan must be presented to the governing board prior to adoption.
- In the event a district has not met the program goals described in the EEO plan, the district shall adopt a revised EEO plan that specifies the efforts it will employ to meet those goals. (ref § 53003)

The EEO plan must include all of the following:

- Specific pre-hiring, hiring, and post-hiring EEO strategies the District intends to implement each year over the life of the plan;
- A schedule identifying the timetables for implementation of the identified EEO strategies;
- Identification of the district EEO officer, with delegated responsibility and authority for implementing the EEO Plan and assuring compliance with Title 5 regulations;
- The procedure for filing complaints and the person with whom such complaints are to be filed;
- A process for notifying all District employees of the provisions of the plan and the policy statement required;
- A process for ensuring that individuals directly participating in the screening or selection process receive, prior to their participation, training on the requirements of the applicable Title 5 regulations and of state and federal nondiscrimination laws, the educational benefits of workforce diversity, the elimination of bias in hiring decisions, and best practices in serving on a screening or selection committee;
- A process for providing annual written notice to appropriate community-based and professional organizations concerning the District's plan and the need for assistance from such organizations in identifying qualified, diverse pools of applicants for openings within the District;
- A process for gathering information and periodic, longitudinal analysis of the District's employees and applicants, broken down by number of persons from "monitored groups", as defined by Title 5 Section 53001(i), in each job category to determine whether additional diversification measures are required and to implement and evaluate the effectiveness of those measures
- The District shall conduct a data review as part of its plan renewal, and may conduct periodic data reviews more frequently; and

- A process for utilizing data available from reliable public and private sources to determine whether monitored groups are underrepresented within district job categories and strategies for addressing any underrepresentation.

The District will post a copy of the EEO plan on the District's website and direct employees to where they can find it.

The District shall make a continuous good faith effort to comply with the requirements of the Plan to achieve employee diversity and avoid disparate impacts, consistent with state and federal law.

### **Annual Evaluation**

- The District shall collect and continually monitor its employee and applicant demographic data to evaluate the implementation of the EEO plan and to conduct the analyses required by Title 5. The District shall report its employment-related data to the California Community Colleges Chancellor's Office annually in a manner prescribed by the Chancellor. To facilitate analysis, all applicants and employees must be assigned a job category.
- The District data collection will allow applicants and employees to identify their gender, (including non-binary options) ethnicity and, if applicable, disability in a manner prescribed by the California Community Colleges Chancellor's Office consistent with state and federal law.

### **EEO Advisory Committee**

- District shall establish an EEO Advisory Committee, pursuant to § 53005; and
- Advisory committee shall include a diverse membership and include members from District stakeholder groups, including but not limited to, students, faculty, and classified staff.
- Members of the advisory committee as well as members of the District governing board shall receive training in all of the following: applicable Title 5 regulations and of state and federal nondiscrimination laws; the educational benefits of workforce diversity, the identification and elimination of bias in hiring decisions; and the role of the advisory committee in drafting and implementing the District's EEO Plan.

The responsibilities of the Committee are defined in the District EEO Plan.

### **Employment Procedures**

**Job Analysis and Validation:** Chief Human Resources Officer (CHRO) shall assure that a proper job analysis is performed for every job filled by the District to determine and validate the knowledge, skills, abilities and characteristics an employee must possess to perform the job satisfactorily.

A statement of bona fide essential functions and minimum qualifications shall be developed for all positions.

**Job Description:** Every job description shall provide a general statement of job duties and responsibilities. Job specifications shall include functions and tasks; knowledge; skills; ability; and job related personal characteristics, including but not limited to sensitivity to and understanding of the diverse academic, socioeconomic, cultural, disability, and ethnic backgrounds of community college students.

**Recruitment:** Recruitment must be conducted actively within and outside of the District work force. Open recruitment is mandated for all new full-time and part-time positions, except under limited circumstances involving interim hires. Recruitment must utilize outreach strategies designed to ensure that all qualified individuals are provided the opportunity to seek employment with the District.

Recruitment for administrative, and faculty positions (full and part-time) may include advertisement in appropriate professional journals, job registries and newspapers of general circulation; distribution of job announcements to the EEO Registry, K-12 districts, two and four year colleges, and graduate schools where appropriate candidates might be enrolled; recruitment at conferences, fairs, and professional meetings; and notices to institutions and professional organizations. Classified positions may also be advertised in area newspapers of general circulation as well as local print media.

**Applicant Pools:** The application for employment shall afford each applicant an opportunity to identify voluntarily as to gender, ethnicity and, if applicable, disability. This information shall be maintained in confidence and shall be used only for research, validation, monitoring, evaluation of the effectiveness of the Plan, or as authorized by law.

After the application deadline has passed, the initial applicant pool shall be recorded and reviewed by the CHRO or designee. All initial applications shall be screened to determine completeness of the application packets and which candidates satisfy job specifications set forth in the job announcement. The group of candidates who submits a complete application packet and meet the job specifications shall constitute the "qualified applicant pool."

Once the qualified applicant pool is formed, the pool must again be analyzed. If the CHRO or designee finds that the composition of the qualified applicant pool may have been influenced by factors which are not job related, the District may immediately, and before the selection process continues, consult with legal counsel to determine what, if any, corrective action is required by law.

**Screening and Selection:** Screening, selecting and interviewing candidates for all positions shall include thorough and fair procedures that are sensitive to issues of diversity.

If the District determines that a particular monitored group is significantly underrepresented with respect to one or more job categories, the District shall take the following additional steps:

- review its recruitment procedures;
- consult with counsel to determine whether there are other, additional measures that may be undertaken that are required or permitted by law;
- consider various other means of reducing the underrepresentation which do not involve taking monitored group status into account and implement any such techniques that are feasible;
- If significant underrepresentation persists:
  - review each locally-established job qualification to determine if it is job related and consistent with business necessity;
  - discontinue the use of any non-job-related local qualification; and
  - continue using job-related local qualifications only if no alternative standard is reasonably available; and
- consider the implementation of additional measures designed to promote diversity.

#### **Delegation of Authority**

- The designation of a single person as the "EEO Officer" charged with overseeing the day-to-day implementation of the EEO Plan and programs.
- Processes and responsibilities when the EEO Officer is named in a complaint or implicated by the allegations in a complaint.

#### **Complaint Procedure**

The District must identify to the public and to the California Community Colleges Chancellor's Office an individual described in Title 5 as the "responsible District officer," responsible for receiving complaints. Informal charges of unlawful discrimination should be brought to the attention of the responsible District officer. The responsible District officer shall oversee the informal resolution process. The actual investigation of complaints may be assigned to other staff or to outside persons or organizations under contract. An outside investigator must be used when the responsible District officer is named in the complaint or implicated by the allegations in the complaint.

When a person brings charges of unlawful discrimination the officer must:

- Undertake efforts to resolve the charge informally;
- Advise the complainant that complainant need not participate in an informal resolution of the complaint;
- Notify the complainant of the procedures for filing a formal complaint;
- Notify the complainant that victim's may file a complaint with the Office of Civil Rights of the U.S. Department of Education.
- If the complainant, a student or an employee, files a formal complaint, the responsible District officer must also forward a copy of the complaint to the California Community Colleges Chancellor's Office.

A formal complaint not involving employment, must be processed if it is filed within one year of the date of the alleged unlawful discrimination or within one year of the date on which the complainant knew or should have known of the facts underlying the allegation.

A formal complaint alleging discrimination in employment must be filed within 180 days of the date of the alleged unlawful discrimination, unless the complainant first obtained knowledge of the facts of the alleged violation after the expiration of the initial 180 days.

The complaint must be filed by someone who alleges that complainant has personally suffered unlawful discrimination, or by someone who has learned about unlawful discrimination in that person's official capacity.

When a proper complaint is received, the District will begin an impartial fact-finding investigation, and notify the complainant and the California Community Colleges Chancellor's Office that it is doing so.

When the investigation is done, the results must be set forth in a written report. The written report must include a description of the circumstances giving rise to the complaint, a summary of the testimony of each witness, an analysis of any relevant data or other evidence collected during the investigation, a specific finding as to whether discrimination did or did not occur with respect to each allegation in the complaint, and any other appropriate information.

In any case that does not involve employment discrimination, the District must provide the California Community Colleges Chancellor's Office with a copy of the investigative report within 90 days from the date the District received the complaint. The District must also provide the complainant with a copy or summary of the investigative report within 90 days from the date the District received the complaint. The California Community Colleges Chancellor's Office and the complainant must also be provided with a written notice setting forth the determination of the CHRO as to whether discrimination did or did not occur with respect to each allegation in the complaint; a description of action taken, if any, to prevent similar problems from occurring in the future; the proposed resolution of the complaint; and notice of the complainant's right to appeal to the District's Governing Board and the California Community Colleges Chancellor's Office.

In any case that involves employment discrimination, the District must provide the complainant with a copy or summary of the report, and with written notice setting forth the determination of the CHRO as to whether discrimination did or did not occur with respect to each allegation in the complaint; a description of action 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's Governing Board and to file a complaint with the Department of Fair Employment and Housing (DFEH).

If the complainant is not satisfied with the results of the administrative determination, the complainant must be given the opportunity to submit a written appeal to the governing board within 15 days from the date of the notice of the administrative determination. The Board must review the original complaint, the investigative report, the administrative determination, and the appeal and must issue a final District decision within 45 days of receiving the appeal.

In any case not involving employment discrimination, a copy of the final District decision must be promptly forwarded to the complainant and the California Community Colleges Chancellor's Office. The complainant must be notified of complainant's right to appeal. In any case involving employment discrimination, a copy of the final District decision must be promptly forwarded to the complainant. The complainant must be notified of complainant's to right to file a complaint with the DFEH.

Where the Board does not act within 45 days the administrative determination must be deemed approved and must become the final District decision. The District shall promptly notify the complainant and in cases not involving employment discrimination, the California Community Colleges Chancellor's Office, that the Board took no action and the administrative determination becomes the final District decision. In cases not involving employment discrimination, the complainant must be informed of complainant's right to appeal the District's decision to the California Community Colleges Chancellor's Office. In cases involving employment discrimination, the complainant shall be notified of complainant's right to file a complaint with the DFEH.

In cases not involving employment discrimination, the complainant must be given the right to file a written appeal with the California Community Colleges Chancellor's Office within 30 days after the Board issues the final District decision, permits the administrative decision to become final or from the date that notice of the District's final decision was provided to the complainant pursuant to Section 59338(b) or (d), whichever is later.

The District should retain and make available the original complaint, and copies of the final decision or a statement indicating the date on which the administrative determination became final, the notice given to complainant, the complainant's appeal of the District's administrative determination, the investigative report and any other information the California Community Colleges Chancellor's Office may require.

### **Job Announcements**

All job announcements shall contain a statement in substantially the following form: The District is an equal opportunity employer. The policy of the District is to encourage applications from persons who are economically disadvantaged and individuals belonging to significantly underrepresented groups within the District's workforce, including ethnic and racial minorities, women, and persons with disabilities. No person shall be denied employment because of religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, race

or ethnicity, color, medical condition, genetic information, ancestry, sexual orientation, marital status, physical or mental disability, pregnancy, military and veteran status, or because person is perceived to have one or more of the foregoing characteristics, or based on association with a person or group with one or more of these actual or perceived characteristics.

### **Dissemination and Revision of the Plan**

All managers and supervisors shall be given copies of the plan as revised from time to time and any guidelines for implementing the plan.

Copies of the plan shall be provided to the Academic Senate and the exclusive representatives of any units of employees.

Statements of nondiscrimination shall be posted at locations where applications for employment are distributed.

Such plans shall be reviewed at least every three years and, if necessary, revised and submitted to the California Community Colleges Chancellor's Office within 90 days of the effective date of the revision or amendment(s). If the California Community Colleges Chancellor's Office determines that the District's policies do not comply with Title 5 Sections 59300 et seq., the California Community Colleges

Chancellor's Office may require the District to modify its policies.

### **Accountability and Corrective Action**

The District shall certify annually to the Chancellor of the California Community Colleges that they have timely:

- Recorded, reviewed and reported the data required regarding qualified applicant pools;
- Reviewed and updated, as needed, the Strategies Component of the District's EEO Plan; and
- Investigated and appropriately responded to formal harassment or discrimination complaints filed pursuant to subchapter 5 (commencing with Section 59300) of chapter 10 of this division.

#### **Legal**

Government Code Sections 7400 et seq. and 12940 et seq.

[ACCJC Accreditation Standard III.A.12](#)

[Title 5 Section 53000](#)

[Title 5 Section 59300](#)

[Education Code Sections 87100](#)

[20 U.S. Code Sections 1681](#)

#### **Cross References**

[BP 3410 Nondiscrimination](#)

[AP 3410 Nondiscrimination](#)

[BP 3430 Prohibition of Harassment](#)

[AP 3430 Prohibition of Harassment](#)

[AP 3435 Discrimination and Harassment Complaints and Investigations](#)

[BP 7100 Commitment to Diversity](#)

[AP 7100 Commitment to Diversity](#)

[BP 7120 Recruitment and Hiring](#)

AP Recruitment and Hiring



Book	Board Policies
Section	Chapter 3 - General Institution
Title	Nondiscrimination
Code	BP 3410
Status	Active
Adopted	January 17, 2019
Last Revised	January 18, 2024

**Board Policy**  
**Chapter 3 - General Institution**

**BP 3410**

**NONDISCRIMINATION**

The District is committed to equal opportunity in educational programs, employment, and all access to institutional programs and activities.

The District, and each individual who represents the District, shall provide access to its services, classes, and programs without regard to national origin, immigration status, religion, age, gender, gender identity, gender expression, race or ethnicity, color, medical condition, genetic information, ancestry, sexual orientation, marital status, physical or mental disability, pregnancy, or military and veteran status, or because a person is perceived to have one or more of the foregoing characteristics, or based on association with a person or group with one or more of these actual or perceived characteristics.

The District shall not discriminate against a person in hiring, termination, or any term or condition of employment or otherwise penalize a person based upon the person's use of cannabis off the job and away from the workplace unless permitted by California law.

The Superintendent/President shall establish administrative procedures that ensure all members of the college community can present complaints regarding alleged violations of this policy and have their complaints heard in accordance with the Title 5 regulations and those of other agencies that administer state and federal laws regarding nondiscrimination.

No District funds shall ever be used for membership, or for any participation involving financial payment or contribution on behalf of the District or any individual employed by or associated with it, to any private organization whose membership practices are discriminatory on the basis of national origin, immigration status, religion, age, gender, gender identity, gender expression, race, color, medical condition, genetic information, ancestry, sexual orientation, marital status, physical or mental disability, pregnancy, or military and veteran status, or because a person is perceived to have one or more of the foregoing characteristics, or because of an association with a person or group with one or more of these actual or perceived characteristics.

Napa Valley College's non-discrimination policy can also be viewed in Spanish.

Legal [ACCJC Accreditation Eligibility Requirement 20](#)  
[Labor Code Section 1197.5](#)  
[Title 2 Sections 10500 et seq.](#)  
[Government Code Sections 12926.1](#)  
[Government Code Section 12940 et seq.](#)



[Government Code Sections 12954](#)

[Penal Code Section 422.55](#)

[Title 5 Section 59300 et seq.](#)

[Title 5 Section 53000 et seq.](#)

[Education Code Section 87100](#)

[Education Code Section 72010 et seq](#)

[Education Code Section 66250 et seq.](#)

#### Cross References

[BP 3420 - Equal Employment Opportunity](#)

[BP 3430 - Prohibition of Harassment](#)

[BP 5140 - Disabled Student Programs and Services \(DSPS\)](#)



Book	Administrative Procedures
Section	Chapter 3 - General Institution
Title	Nondiscrimination
Code	AP 3410
Status	Active
Adopted	April 23, 2020
Last Revised	November 28, 2023
Last Reviewed	September 16, 2020

**Administrative Procedure  
Chapter 3 - General Institution**

**AP 3410**

**NONDISCRIMINATION**

**Education Programs**

The District shall provide access to its services, classes, and programs without regard to, national origin, religion, age, gender, gender identity, gender expression, race or ethnicity, color, medical condition, genetic information, ancestry, sexual orientation, marital status, physical or mental disability, pregnancy, immigration status, military and veteran status, or because person is perceived to have one or more of the foregoing characteristics, or based on association with a person or group with one or more of these actual or perceived characteristics.

All courses, including noncredit classes, shall be conducted without regard to the gender of the student enrolled in the classes. As defined in the Penal Code, "gender" means sex, and includes a person's gender identity and gender expression. "Gender expression" means a person's gender-related appearance and behavior, whether or not stereotypically associated with the person's assigned sex at birth.

The District shall not prohibit any student from enrolling in any class or course on the basis of gender.

Academic staff, including but not limited to counselors, instructors and administrators shall not offer program guidance to students which differs on the basis of gender.

Insofar as practicable, the District shall offer opportunities for participation in athletics equally to male and female students.

**Employment**

The District shall provide equal employment opportunities to all applicants and employees regardless of national origin, religion, age, sex, gender, gender identity, gender expression, race or ethnicity, color, medical condition, genetic information, ancestry, sexual orientation, marital status, physical or mental disability, pregnancy, military and veteran status, or because a person is perceived to have one or more of the foregoing characteristics, or based on association with a person or group with one or more of these actual or perceived characteristics. The District shall not discriminate against a person in hiring, termination, or any term or condition of employment or otherwise penalize a person based upon the person's use of cannabis off the job and away from the workplace unless permitted under Government Code Section 12954.

All employment decisions, including but not limited to hiring, retention, assignment, transfer, evaluation, dismissal, compensation, and advancement for all position classifications shall be based on job-related criteria as well as be responsive to the District's needs.

The District shall from time to time as necessary provide professional and staff development activities and training to promote understanding of diversity.

It is unlawful to discriminate against an applicant, employee, or person who serve in an unpaid internship or any other limited-duration program to provide unpaid work experience in the selection, termination, training, or other terms and treatment of that person on any the basis of their national origin, religion, age, sex, gender, gender identity, gender expression, race or ethnicity, color, medical condition, genetic information, ancestry, sexual orientation, marital status, physical or mental disability, pregnancy, immigration status, military and veteran status, or because person is perceived to have one or more of the foregoing characteristics, or based on association with a person or group with one or more of these actual or perceived characteristics.

#### Legal

[Title 2 Section 10500 et seq.](#)

[Labor Code Section 1197.5 \(Equal Pay Act\)](#)

[Government Code Section 11135 et seq.](#)

[Government Code Section 12940 et seq.](#)

[Title 5 Section 53000 et seq.](#)

[Title 5 Section 59300 et seq.](#)

[Education Code Sections 87100 et seq.](#)

[ACCJC Accreditation Standard Catalog Requirements](#)

[ACCJC Accreditation Eligibility Requirement 20](#)

[Penal Code Sections 422.55 et seq.](#)

[Education Code Section 200 et seq.](#)

[Education Code Section 66250 et seq.](#)

[Education Code Section 72010 et seq.](#)

#### Cross References

[BP 3430 Prohibition of Harassment](#)

[AP 3430 Prohibition of Harassment](#)

[AP 3435 Discrimination and Harassment Complaints and Investigations](#)

[BP 4030 Academic Freedom](#)



Book	Board Policies
Section	Chapter 7 - Human Resources
Title	Commitment to Diversity
Code	BP 7100
Status	Active
Adopted	March 15, 2015

**Board Policy**  
**Chapter 7 – Human Resources**

**BP 7100**

**COMMITMENT TO DIVERSITY**

The District is committed to employing qualified administrators, faculty, and staff members who are dedicated to student success. The Board of Trustees recognizes that diversity in the academic environment fosters cultural awareness, promotes mutual understanding and respect, and provides suitable role models for all students. The Board is committed to hiring and staff development processes that support the goals of equal opportunity and diversity, and provide equal consideration for all qualified candidates.

Legal	<a href="#">Title 5 Sections 53000 et seq.</a> <a href="#">Education Code Sections 87100 et seq.</a>
Cross References	<a href="#">BP 3420 - Equal Employment Opportunity</a>



Book	Administrative Procedures
Section	Chapter 7 - Human Resources
Title	Commitment to Diversity
Code	AP 7100
Status	Active
Adopted	April 5, 2019

**Administrative Procedure  
Chapter 7 - Human Resources**

**AP 7100**

**COMMITMENT TO DIVERSITY**

The District maintains a commitment to diversity through the recruitment and retention of employees who reflect the diversity of the District's student base and communities served. The District is committed to employing qualified administrators, faculty, and staff who have a commitment to diversity and are dedicated to student success.

The District demonstrates commitment to diversity by complying with all federal, state, and local laws and regulations regarding equal employment and nondiscrimination in employment and by maintaining an Equal Employment Opportunity Plan.

Also see BP/AR 3410 Nondiscrimination, BP/AR 3420 Equal Employment Opportunity, and AR 3435 Discrimination and Harassment Investigations.

Legal [Education Code Section 87100 et seq.](#)  
[Title 5 Section 53000 et seq.](#)

### **Component 3: Policy Statement**

*References:* CCR, Title 5, § 53002

The Board of Trustees supports the intent set forth by the California Legislature to assure that effort is made to build an equity-minded college community that provides opportunities for all and that fosters a climate of respect for diverse peoples and cultures, that includes all employee groups, with the inclusion of faculty and staff from a wide variety of backgrounds. It agrees that diversity in the academic environment fosters cultural awareness, mutual understanding and respect, harmony, and suitable role models for all students. The Board of Trustees therefore commits itself to promote the total realization of equal employment through a continuing equal employment opportunity program. Equal employment opportunities include not only a process for equal opportunity in hiring, but also practices and processes that create inclusive, respectful work environments.

The Superintendent/President shall develop, for review and adoption by the Board of Trustees, a plan for equal employment opportunity that complies with the Education Code and Title 5 requirements as modified or clarified by judicial interpretation from time to time.

This Policy Statement aligns with and incorporates by reference the following Board Policies by reference: 3410, Nondiscrimination; 3420, Equal Employment Opportunity; and 7100, Commitment to Diversity.



Book	Board Policies
Section	Chapter 3 - General Institution
Title	Prohibition of Harassment
Code	BP 3430
Status	Active
Adopted	January 17, 2019
Last Revised	January 18, 2024

**Board Policy**  
**Chapter 3 - General Institution**

**BP 3430**

**PROHIBITION OF HARASSMENT**

All forms of harassment are contrary to basic standards of conduct between individuals. State and federal law, and this policy prohibit harassment, and the District will not tolerate harassment. The District is committed to providing an academic and work environment that respects the dignity of individuals and groups. The District shall be free of unlawful harassment, including that which is based on any of the following statuses: race, religious creed, 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, or military and veteran status, or because a person is perceived to have one or more of the foregoing characteristics.

The District seeks to foster an environment in which all employees, students, 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 swiftly and thoroughly.. 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, unpaid intern, or volunteer who believes that they have been harassed or retaliated against in violation of this policy should immediately report such incidents by following the procedures described in AP 3435 Discrimination and Harassment Complaints and Investigations. The District requires supervisors to report all incidents of harassment and retaliation that come to their attention.

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

To this end, the Superintendent/President shall ensure that the institution undertakes education and training activities to counter 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 Superintendent/President shall establish procedures that define harassment on campus. The Superintendent/President shall further establish procedures for employees, students, unpaid interns, volunteers, and other members of the campus community that provide for the investigation and resolution of complaints regarding harassment and discrimination, and procedures to resolve complaints of harassment and discrimination. State and federal law and this policy prohibit retaliatory acts by the District, its employees, students, and agents.

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

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

#### Legal

Education Code Section 66262.5

Americans with Disabilities Act of 1990 (ADA)

Age Discrimination in Employment Act of 1967 (ADEA)

[Title VII of the Civil Rights Act of 1964, 42 U.S. Code Annotated Section 2000e](#)

[Title 2 Section 10500 et seq.](#)

[Civil Code Section 51.9](#)

[Government Code Section 12950.1](#)

[Government Code Sections 12940](#)

[Government Code Section 12923](#)

[Education Code Section 66281.5](#)

[Education Code Section 66252](#)

[Education Code Section 44100](#)

[Education Code Section 212.5](#)

#### Cross References

[BP 3410 - Nondiscrimination](#)

[BP 3420 - Equal Employment Opportunity](#)

[BP 3430 - Prohibition of Harassment](#)





Book	Administrative Procedures
Section	Chapter 3 - General Institution
Title	Prohibition of Harassment
Code	AP 3430
Status	Active
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Last Revised	November 28, 2023
Last Reviewed	September 16, 2020

**Administrative Procedure  
Chapter 3 - General Institution**

**AP 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 on campus. The procedure for the investigation and resolution of complaints of harassment by or against any staff or faculty member or student within the District is set forth in AP 3435.

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

**Definitions:**

**General Harassment:** Harassment based on national origin, religion, age, sex, gender, gender identity, gender expression, race or ethnicity, color, medical condition, genetic information, ancestry, sexual orientation, marital status, physical or mental disability, pregnancy, military and veteran status, or because person is perceived to have one or more of the foregoing characteristics, or based on association with a person or group with one or more of these actual or perceived 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 that person's ability to participate in or to realize the intended benefits of an institutional activity, employment, or resource.

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

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

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

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

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

**Environmental:** A hostile academic or work environment may exist where it is permeated by sexual innuendo; insults or abusive comments directed at an individual or group based on gender, race, nationality, sexual orientation or other protected status; or gratuitous comments regarding gender, race, sexual orientation, or other protected status that are not relevant to the subject matter of the class or activities on the job. A hostile environment can arise from an unwarranted focus on sexual topics or sexually suggestive statements in the classroom or work environment. It can also be created by an unwarranted focus on, or stereotyping of, particular racial or ethnic groups, sexual orientations, genders or other protected statuses. An environment may also be hostile toward anyone who merely witnesses unlawful harassment in immediate surroundings, although the conduct is directed at others. The determination of whether an environment is hostile is based on the totality of the circumstances, including such factors as the frequency of the conduct, the severity of the conduct, whether the conduct is humiliating or physically threatening, and whether the conduct unreasonably interferes with an individual's learning or work.

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

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

**This definition encompasses two kinds of sexual harassment:**

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

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

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

### **Consensual Relationships**

Romantic or sexual relationships between supervisors and employees, or between administrators, faculty members, or staff members and students are discouraged. There is an inherent imbalance of power and potential for exploitation in such relationships. A conflict of interest may arise if the administrator, faculty member or staff member must evaluate the student's or employee's work or make decisions affecting the employee or student. The relationship may create an appearance of impropriety and lead to charges of favoritism by other students or employees. A consensual sexual relationship may change, with the result that sexual conduct that was once welcome becomes unwelcome and harassing. In the event that such relationships do occur, the District has the authority to transfer any involved employee to eliminate or attenuate the supervisory authority of one over the other, or of a teacher over a student. Such action by the District is a proactive and preventive measure to avoid possible charges of harassment and does not constitute discipline against any affected employee.

### **Academic Freedom**

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

### **Legal**

Education Code Section 66281.8  
[42 U.S. Code Annotated Section 2000e](#)  
[Title VII of the Civil Rights Act of 1964](#)  
[Title 2 Section 10500](#)  
[Title 5 Section 59320](#)  
[Civil Code Section 51.9](#)  
[Education Code Section 212.5](#)  
[Government Code Section 12923](#)  
[Government Code Section 12940](#)  
[Education Code Section 44100](#)  
[Education Code Section 66281.5](#)

### **Cross References**

[BP 4030 Academic Freedom](#)  
[BP/AP 3410 Nondiscrimination](#)  
[AP 3435 Discrimination and Harassment Complaints and Investigations](#)



Book	Board Policies
Section	Chapter 3 - General Institution
Title	Prohibition of Sexual Harassment under Title IX
Code	BP 3433
Status	Active
Adopted	March 16, 2023

**Board Policy  
Chapter 3 - General Institution**

**BP 3433**

**PROHIBITION OF SEXUAL HARASSMENT UNDER TITLE IX**

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

The District seeks to foster an environment in which all employees, students, applicants for employment, and applicants for admission feel free to report incidents of sexual harassment in violation of this policy and Title IX, without fear of retaliation or reprisal. Therefore, the District also strictly prohibits retaliation against any individual for filing a complaint of sexual harassment in violation of this policy and Title IX or for participating, or refusing to participate, in a sexual harassment investigation. The District will investigate all allegations of Title IX retaliation swiftly and thoroughly. If the District determines that someone has retaliated, it will take reasonable steps within its power to stop such conduct. Individuals who engage in Title IX retaliatory conduct are subject to disciplinary action, up to and including termination or expulsion.

Any employee, student, applicant for employment, or applicant for admission who believes 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 3434 Responding to Harassment Based on Sex under Title IX. The District requires supervisors to report all incidents of harassment and retaliation that come to their attention.

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

To this end, the superintendent/president shall ensure that the institution undertakes education and training activities to counter sexual harassment 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 superintendent/president shall establish procedures that define sexual harassment on campus. The superintendent/president shall further establish procedures for employees, students, and other members of the campus community that provide for the investigation and resolution of complaints regarding sexual harassment in violation of this policy, and procedures to resolve complaints of sexual harassment in violation of this policy. State and federal law and this policy prohibit retaliatory acts against all participants by the District, its employees, students, and agents.

The District will publish and publicize this policy and related written procedures (including the procedure for making complaints) to administrators, faculty, staff, students, applicants for employment, and applicants for admission, particularly when they are new to the institution. The District will make this policy and related written

procedures (including the procedures for making complaints) available in all administrative offices and will post them on the District's website.

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

Legal

[Title IX of the Education Amendments Act of 1972](#)

[34 Code of Federal Regulations Part 106](#)



Book	Administrative Procedures
Section	Chapter 3 - General Institution
Title	Prohibition of Sexual Harassment under Title IX
Code	AP 3433
Status	Active
Adopted	March 16, 2023

**Administrative Procedure  
Chapter 3 - General Institution**

**AP 3433**

**PROHIBITION OF SEXUAL HARASSMENT UNDER TITLE IX**

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

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

**Definitions**

**Sexual Harassment under Title IX:** Conduct that satisfies one or more of the following:

- A District employee conditions the provision of an aid, benefit, or service of the District on an individual's participation in unwelcome sexual conduct (quid pro quo harassment);
- Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the District's education program or activity;
- Sexual assault, including the following:
  - Sex Offenses. Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.
  - Rape (except Statutory Rape). The carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their age or because of his/her/their temporary or permanent mental or physical incapacity. There is carnal knowledge if there is the slightest penetration of the genital or anal opening of the body of another person.
  - Sodomy. Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their age or because of his/her/their temporary or permanent mental or physical incapacity.
  - Sexual Assault with an Object. To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their age or because of his/her/their temporary or permanent mental or physical incapacity. An "object" or "instrument" is anything the offender uses other than the offender's genitalia, e.g., a finger, bottle, handgun, stick.
  - Fondling. The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their age or because of his/her/their temporary or permanent mental or physical incapacity.
  - Sex Offenses, Non-Forcible Unlawful, Non-Forcible Sexual Intercourse.
    - Incest. Non-Forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

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



Book	Administrative Procedures
Section	Chapter 3 - General Institution
Title	Discrimination and Harassment Complaints and Investigations
Code	AP 3435
Status	Active
Adopted	March 13, 2020

**Administrative Procedure  
Chapter 3 - General Institution**

**AP 3435**

**DISCRIMINATION AND HARASSMENT COMPLAINTS AND INVESTIGATIONS**

**Responsible District Officer Designation -- Title IX Coordinators**

The Chief Human Resources Officer (CHRO) and the Assistant Superintendent/Vice President of Student Affairs serve as the Title IX Coordinators. The Title IX Coordinators are designated as the responsible district officers for incidents involving any student or employee of the District.

References to responsible district officer and/or designated Title IX Coordinators throughout these Administrative Procedures shall incorporate the above designations by reference.

**Complaints**

The law prohibits coworkers, supervisors, managers, and third parties with whom an employee comes into contact from engaging in harassment, discrimination, or retaliation. Any person who has suffered harassment, discrimination, or retaliation 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 California Community Colleges Chancellor's Office that alleges harassment, discrimination, or retaliation in violation of the District's Board Policies, Administrative Procedures or in violation of state or federal law. An informal complaint is any of the following: (1) An unwritten allegation of harassment, discrimination, or retaliation; (2) a written allegation of harassment, discrimination, or retaliation that falls outside the timelines for a formal complaint; or (3) a written complaint alleging harassment, discrimination, or retaliation filed by an individual who expressly indicates that do not want to file a formal complaint.

**Informal Complaints**

Any person may submit an informal complaint to the designated Title IX Coordinator(s) or responsible District Officer or any other District or college administrator. Administrators receiving an informal complaint shall immediately notify the designated Title IX Coordinator(s) in writing of all pertinent information and facts alleged in the informal complaint.

Upon receipt of an informal complaint, the designated Title IX Coordinator(s) will notify the person bringing the informal complaint of right to file a formal complaint, if the incident falls within the timeline for a formal complaint, and explain the procedure for doing so. Please refer to Filing a Timely Complaint. 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 designated Title IX Coordinator(s) 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 designated Title IX Coordinator(s) determine that the allegation(s), if proven true, would constitute a violation of the District policy prohibiting harassment, discrimination, or retaliation. The designated Title IX Coordinator(s) will explain to any individual bringing an informal complaint that the designated Title IX Coordinator(s) may decide to initiate an investigation, even if the individual does not wish the designated Title IX Coordinator(s) to do so. The designated Title IX Coordinator(s) 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 Chancellor of the California Community Colleges or the designated Title IX Coordinator(s) unless the party submitting the Formal Complaint alleges discrimination, harassment, or retaliation against the responsible district officer, in which case it should be submitted directly to the Superintendent/President or the Chancellor of the California Community Colleges.

Formal Complaints should be submitted on the form prescribed by the Chancellor of the California Community Colleges. A copy of the form will be available at the following District offices: Office of Human Resources, Training & Development and Office of Student Affairs. Additionally, the Formal Complaint Form will be posted on the following District web pages: Human Resources and Title IX.

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

A Formal Complaint must meet each of the following criteria:

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

If the Formal Complaint does not meet the requirements set forth above, the designated Title IX Coordinator(s) will promptly return it to the complainant and specify the defect. If the sole defect is that the Formal Complaint was filed outside the applicable prescribed timeline, the designated Title IX Coordinator(s) will handle the matter as an informal complaint.

**Oversight of Complaint Procedure:** The designated Title IX Coordinator(s) are the "responsible District officers" charged with receiving complaints of discrimination or harassment, and coordinating their investigation.

The actual investigation of complaints may be assigned by the Superintendent/President or designee to other staff or to outside persons or organizations under contract with the District. This shall occur whenever the designated Title IX Coordinator(s) are named in the complaint or implicated by the allegations in the complaint.

**Who May File a Complaint:** Any student, employee, or third party who believe they have 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 believe they have been discriminated against or harassed in violation of these policy's and procedures may make a complaint orally or in writing.

If a complainant decides to file a formal written unlawful discrimination or harassment complaint against the District, must file the complaint on a form prescribed by the California Community Colleges Chancellor's Office. These approved forms are available from the designated Title IX Coordinator(s) and at the California Community Colleges Chancellor's Office website.

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

- the designated Title IX Coordinator(s): Assistant Superintendent/Vice President of Student Affairs and/or Chief Human Resources Officer, and

- Superintendent/President or
- the California Community Colleges Chancellor's Office.

### **Employment-Related Complaints**

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

Complaints filed with the EEOC or the DFEH should be forwarded to the California Community Colleges Chancellor's Office.

Any District employee who receives a harassment or discrimination complaint shall notify the designated Title IX Coordinator(s) immediately.

**Filing a Timely Complaint:** Since failure to report harassment and discrimination impedes the District's ability to stop the behavior, the District strongly encourages anyone who believes they are being harassed or discriminated against, to file a 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 will investigate complaints involving acts that occur off campus if they are related to an academic or work activity or if the harassing conduct interferes with or limits a student's or employee's ability to participate in or benefit from the school's programs or activities.

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

**Intake and Processing of the Complaint:** Upon receiving notification of a harassment or discrimination complaint, the designated Title IX Coordinator(s) shall:

- Undertake efforts to informally resolve the charges, including but not limited to mediation, rearrangement of work/academic schedules; obtaining apologies; providing informal counseling, training, etc.
- Advise the complainant that need not participate in an informal resolution of the complaint, as described above, and has the right to end the informal resolution process at any time.

**NOTE:** The OCR September 2017 Interim Guidance now permits mediation in all cases as long as all parties agree. Districts should exercise care in using mediation in cases of sexual violence.

- Advise a student complainant that may file a complaint with the Office of Civil Rights of the U.S. Department of Education and employee complainants may file a complaint with the Department of Fair Employment and Housing. All complainants should be advised that they have a right to file a complaint with local law enforcement, if the act complained of is also a criminal act. The District must investigate even if the complainant files a complaint with local law enforcement. In addition, the District should ensure that complainants are aware of any available resources, such as counseling, health, and mental health services. The designated Title IX Coordinator(s) shall also notify the California Community Colleges Chancellor's Office of the complaint.
- Take interim steps to protect a complainant from coming into contact with an accused individual, especially if the complainant is a victim of sexual violence. The designated Title IX Coordinator(s) should notify the complainant of complainant's options to avoid contact with the accused individual and allow students to change academic situations as appropriate. For instance, the District may prohibit the accused individual from having any contact with the complainant pending the results of the investigation. When taking steps to separate the complainant and accused individual, the District shall minimize the burden on the complainant. For example, it is not appropriate to remove complainants from classes or housing while allowing accused individuals to remain.

### **Investigation**

The designated Title IX Coordinator(s) shall:

- Authorize the investigation of the complaint, and supervise or conduct a thorough, prompt and impartial investigation of the complaint, as set forth below. Where complainants opt for informal resolution, the designated officer will determine whether further investigation is necessary to ensure resolution of the matter and utilize the investigation process outlined below as appropriate. In the case of a formal complaint, the investigation will include interviews with the complainant, the accused, and any other persons who may have relevant knowledge concerning the complaint. This may include victims of similar conduct.

- Review the factual information gathered through the investigation to determine whether the alleged conduct constitutes harassment, or other unlawful discriminatory conduct, giving consideration to all factual information and the totality of the circumstances, including the nature of the verbal, physical, visual or sexual conduct, and the context in which the alleged incidents occurred.

**Investigation of the Complaint:** The District shall promptly investigate every complaint and claim of harassment or discrimination. No claim of workplace or academic harassment or discrimination shall remain unexamined. This includes complaints involving activities that occur off campus and in connection with all the academic, educational, extracurricular, athletic, and other programs of the District, whether those programs take place in the District's facilities, on a District bus, or at a class or training program sponsored by the District at another location. The District shall promptly investigate complaints of harassment or discrimination that occur off campus if the alleged conduct creates a hostile environment on campus.

As set forth above, where the complainant opts for an informal resolution, the designated Title IX Coordinator(s) may limit the scope of the investigation, as appropriate. The District will keep the investigation confidential to the extent possible, but cannot guarantee absolute confidentiality because release of some information on a "need-to-know-basis" is essential to a thorough investigation. When determining whether to maintain confidentiality, the District may weigh the request for confidentiality against the following factors: the seriousness of the alleged harassment; the complainant's age; whether there have been other harassment complaints about the same individual; and the accused individual's rights to receive information about the allegations if the information is maintained by the District as an "education record" under the Family Educational Rights and Privacy Act (FERPA), 20 U.S. Code Section 1232g; 34 Code Federal Regulations Part 99.15. The District will inform the complainant if it cannot maintain confidentiality.

**Investigation Steps:** The District will fairly and objectively investigate harassment and discrimination complaints. Employees designated to serve as investigators under this policy shall have adequate training on what constitutes sexual harassment, including sexual violence, and that they understand how the District's grievance procedures operate. The investigator may not have any real or perceived conflicts of interest and must be able to investigate the allegations impartially.

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

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

**Cooperation Encouraged:** All employees are expected to cooperate with a District investigation into allegations of harassment or discrimination. Lack of cooperation impedes the ability of the District to investigate thoroughly and respond effectively. However, lack of cooperation by a complainant or witnesses does not relieve the District of its obligation to investigate. The District will conduct an investigation if it is discovered that harassment is, or may be occurring, with or without the cooperation of the alleged victim(s) and regardless of whether a complaint is filed. No employee will be retaliated against as a result of lodging a complaint or participating in any workplace investigation.

### **Written Report**

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

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

### **Confidentiality of the Process**

Investigations are best conducted within a confidential climate. Therefore, the District does not reveal information about ongoing investigations except as necessary to fulfill its legal obligations. The District will keep the investigation confidential to the extent possible, but it cannot guarantee absolute confidentiality because

release of some information on a "need-to-know-basis" is essential to a thorough investigation and to protect the rights of Accused students and employees during the investigation process and any ensuing discipline.

### **Administrative Determination**

- In any case not involving employment discrimination, within 90 days of receiving a formal complaint, the district shall complete its investigation and forward a copy of the investigative report to the Chancellor of the California Community Colleges, a copy or summary of the report to the complainant, and written notice setting forth all of the following to both the complainant and the Chancellor:
  - The determination of the Superintendent/President or as to whether there is probable 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 California Community Colleges.
- In any case involving employment discrimination, within 90 days of receiving a formal complaint, the district shall complete its investigation and forward a copy or summary of the report to the complainant, and written notice setting forth all the following to the complainant:
  - The determination of the Superintendent/President or designee as to whether there is probable 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.

If the complainant is not satisfied with the results of the administrative determination, the complainant 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 California Community Colleges Chancellor's Office. The complainant shall also be notified of complainant's 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 California Community Colleges 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 complainant 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.

### **Extension of Time**

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

### **File Retention**

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

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

The District will make such documents available to the Chancellor of the California Community Colleges upon request.

**NOTE:** The language below is optional language regarding sexual misconduct and includes recommendations from the U.S. Department of Education Office for Civil Rights "Dear Colleague" Letters and the April 2014 "Not Alone" White House Task Force Report to Protect Students From Sexual Assault. The suggested language goes beyond the strict requirements of the law, but it complies with suggestions from the OCR's "Dear Colleague Letters" and other sources.

Where the complaint allegation consists of Sexual Misconduct, as defined by Title IX, the following applies:

### **Sexual Misconduct:**

Sexual misconduct includes sexual harassment and sexual violence.

- Sexual harassment may include unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone from or in the work or education setting.
- Sexual violence refers to physical sexual acts perpetrated against a person's will or when a person is incapable of giving consent due to the victim's use of drugs or alcohol or due to an intellectual or other disability. Sexual violence includes rape, sexual assault, sexual battery, and sexual coercion.
- Affirmative consent means an affirmative, conscious, and voluntary agreement to engage in sexual activity.

Sexual misconduct creates a hostile environment if the conduct is sufficiently serious that it interferes with or limits a student's ability to participate in or benefit from the District's program. A single or isolated incident may create a hostile environment if the incident is sufficiently severe.

**Complaint Procedure:**

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

All responsible employees are required to report all actual or suspected sexual misconduct to the designated Title IX Coordinator(s) immediately. A responsible employee is any employee who has the authority to take action to redress sexual misconduct, who has been given the duty of reporting incidents of sexual misconduct to the designated Title IX Coordinator(s) or whom a student or employee could reasonably believe has this authority or duty. The District is on notice if a responsible employee knew, or in the exercise of reasonable care should have known, about the sexual misconduct.

Any person may make a complaint by contacting the designated Title IX Coordinator(s) directly. The District's designated Title IX Coordinator(s) are as follows:

Charo Albarrán, Associate Vice President, Human Resources, Training & Development

Oscar De Haro, Assistant Superintendent/Vice President, Student Affairs

The designated Title IX Coordinator(s) will receive all relevant details about the alleged sexual misconduct reported to the District responsible employee in order to determine what occurred and how to resolve the situation. This includes the names of alleged victim and alleged perpetrator (if known), and the date, time, and location of the alleged sexual misconduct.

**Privileged or Confidential Reporting:**

A District responsible employee should, whenever possible, before a student or employee reveals information that the student or employee may wish to keep confidential, ensure that the person making the report understands the employee's obligations to report to the designated Title IX Coordinator(s), the victim's option to request confidentiality, which the District will take into consideration, and the victim's ability to share the information confidentially with designated District employees.

Professional, licensed, mental health counselors who provide mental-health counseling to members of the District community, or interns, graduate students, and others supervised by professional licensed counselors, are not required to report any information to the designated Title IX Coordinator(s).

Non-professional counselors who work or volunteer in the Student Health Center including front desk personnel and student employees in the course of their duties, may maintain confidentiality. They are not required to report actual or suspected sexual misconduct to the designated Title IX Coordinator(s) in a way that identifies the student without the victim's consent.

**Authority over Parties:**

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

**Standard of Proof:**

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

**Upon Receiving the Complaint – Health and Safety:**

The designated Title IX Coordinator(s), together with the Chief of Police and Campus Assessment Response and Education (CARE) Team will make an immediate assessment concerning the health and safety of the victim and campus community as a whole. The District will provide the reporting party and responding party with immediate, interim measures necessary to protect the individuals' health and safety. These immediate, interim measures may include: providing an escort to ensure that the victim can move safely between classes, ensuring that the victim and perpetrator do not attend the same classes or work in the same area, preventing offending third parties from entering campus, providing counseling services or a referral to counseling services, providing academic support services, such as tutoring, arranging for a victim to retake a course or withdraw from a course without penalty, including ensuring that any changes do not adversely affect the victim's academic record, and reviewing any disciplinary actions taken against the victim to see if there is a causal connection between the harassment, discrimination, or retaliation and the misconduct that may have resulted in the victim being disciplined.

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

**Communicating that the Conduct is Unwelcome:**

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

**Intake and Processing of the Complaint:**

NOTE: The OCR September 2017 Interim Guidance now permits mediation in all cases as long as all parties agree. Districts should exercise care in using mediation in cases of sexual violence.

If the District determines that a sexual misconduct complaint is appropriate for informal resolution, it may permit an informal resolution, including mediation. All parties, including the complainant and respondent, must receive full disclosure of the allegations and information about options for formal resolution before voluntarily agreeing to participate in an informal resolution. If parties agree to an informal resolution, the District does not have to complete a full investigation and adjudication of a report of sexual misconduct.

**Confidentiality:**

Where the victim requests confidentiality regarding a reportable incident, the District will take all reasonable steps to comply with the victim's request or inform the victim when it cannot ensure confidentiality. The District will not disclose the name of the victim unless the victim provides written consent after being informed of victim's right to have the information withheld. Where the victim insists that the District not disclose victim's name or other identifiable information to the alleged perpetrator, the District will inform the victim that its ability to respond will be limited. The District will evaluate this request in the context of its responsibility to provide a safe and nondiscriminatory environment for all employees and students. When weighing a request for confidentiality against the seriousness of the alleged harassment, the designated Title IX Coordinator(s) will take the factors listed above into consideration.

**Fact-Finding Investigation:**

Where the victim has filed a criminal complaint with local law enforcement, the District will consider what information the District is able to share, pursuant to state and federal law, to ensure that victims are not unnecessarily required to give multiple statements about a traumatic event. The District will continue to conduct its own thorough, reliable, prompt, and impartial investigation. The District will normally complete its sexual misconduct investigation within 90 days of receiving the complaint, unless extended by the designated Title IX Coordinator(s) for good cause. The designated Title IX Coordinator(s) will notify the victim and accused in writing of the reason for the extension and the projected new timeline.

The victim and accused will have equal opportunity to present relevant witnesses and other evidence to the District investigator. The District will provide the same opportunities to the victim and accused,

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

**Reporting to California Community Colleges Chancellor's Office:**

The District considers all sexual misconduct complaints to be formal complaints. The designated [Title IX Coordinator(s)] must notify the State Chancellor's Office of any sexual misconduct complaints. Upon completing the investigation, the District shall forward to the California Community Colleges Chancellor's Office a copy of the investigative report and administrative determination and to the complainant a copy or summary of the investigative report and administrative determination.

**NOTE:** This procedure is legally required for Option 1 and Option 2.

**Dissemination of Policy and Procedures**

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

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

**Training**

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

The training and education required by this procedure shall include information and practical guidance regarding the federal and state statutory provisions concerning the prohibition against and the prevention and correction of sexual harassment and the remedies available to victims of sexual harassment in employment, a review of "abusive conduct" and harassment based on gender identity, gender expression, and sexual orientation. The training and education shall also include practical examples aimed at instructing supervisors in the prevention of harassment, discrimination, and retaliation, and shall be presented by trainers or educators with knowledge and expertise in the prevention of harassment, discrimination, and retaliation. Supervisor's harassment training must also address potential exposure and liability for employers and individuals, supervisor's obligation to report sexual harassment, discrimination, and retaliation when they become aware of it, appropriate remedial measures to correct harassing behavior.

The District will maintain appropriate records of the training provided, including the names of the supervisory employees trained, the date of training, sign in sheets, copies of all certificates of attendance or completion issued, the type of training provided, a copy of all written or recorded training materials, and the name of the training provider. If the training is provided by webinar, the District will maintain a copy of the webinar, all written materials used by the training and all written questions submitted during the webinar, and document all written response or guidance the trainer provided during the webinar. The District will retain these records for at least two years.

**NOTE:** The following is suggested as good practice, and will generally be viewed by a court as helping to reduce District liability.

The District will also provide training to students who lead student organizations. The District should provide copies of the sexual harassment policies and training to all District law enforcement unit employees regarding the grievance procedures and any other procedures used for investigating reports of sexual violence.

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

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

### **Education and Prevention for Students**

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

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

Legal

[34 Code of Federal Regulations Section 106.8 subdivision \(b\)](#)

[Title 2 Section 11024](#)

[Title 2 Sections 11023](#)

[Title 5 Sections 59300](#)



[Title 5 Section 59328](#)

[Title 5 Section 59326](#)

[Title 5 Section 59324](#)

[Title 5 Section 59320](#)

[Government Code Section 12950.1](#)

[20 U.S. Code Section 1681](#)

[Education Code Section 212.5](#)

[Education Code Section 231.5](#)

[Education Code Section 66281.5](#)

[Education Code Section 67386](#)

#### Cross References

[BP 3410 Nondiscrimination](#)

[AP 3410 Nondiscrimination](#)

[BP 3430 Prohibition of Harassment.](#)

[AP 3430 Prohibition of Harassment.](#)



Book	Board Policies
Section	Chapter 3 - General Institution
Title	Service and Other Animals on Campus
Code	BP 3440
Status	Active
Adopted	November 10, 1983
Last Reviewed	January 18, 2024

**Board Policy**  
**Chapter 3 - General Institution**

**BP 3440**

**SERVICE AND OTHER ANIMALS ON CAMPUS**

In order to prevent discrimination on the basis of disability, the District will allow an individual with a disability to use a service animal in District facilities and on District campuses in compliance with state and federal law.

The District recognizes that occasionally owners of domestic animals may bring their animals to District property. The District also recognizes that wild or feral animals may select the District grounds as their habitat. However, the District considers the safety and health of Napa Valley College students and employees to be the utmost priority.

Therefore, no student, employee, or other person shall bring, feed, or cause to be brought upon any campus or building of the District any animal except as is necessary for proper service animal functions or other college purposes.

Legal	<a href="#"><u>34 Code of Federal Regulations Part 104.44(b)</u></a> <a href="#"><u>28 Code of Federal Regulations Part 36</u></a> <a href="#"><u>28 Code of Federal Regulations Part 35</u></a> <a href="#"><u>The Americans with Disabilities Act of 1990 – 42 United States Code Sections 12101 et seq.</u></a>
Cross References	<a href="#"><u>BP 3440 - Service and Other Animals on Campus</u></a> <a href="#"><u>AP 3440 - Service Animals</u></a>



Book	Administrative Procedures
Section	Chapter 3 - General Institution
Title	Service Animals
Code	AP 3440
Status	Active
Adopted	November 15, 2015
Last Reviewed	November 28, 2023

**Administrative Procedure  
Chapter 3 - General Institution**

**AP 3440**

**SERVICE ANIMALS**

The District will allow an individual with a disability to use a service animal in District facilities and on District campuses in compliance with state and federal law.

The District will allow an individual with a disability to use a miniature horse as a service animal in District facilities and on District campuses if the miniature horse has been individually trained to do work or perform tasks for the benefit of the individual with a disability and the District has determined, based on the assessment factors provided in this procedure, that a reasonable accommodation can be made.

The District will allow an individual with a disability to be accompanied by their service animal in all areas of the District's facilities where members of the public, invitees, clients, customers, patrons, or participants in services, programs, or activities, as relevant, are allowed to go.

These procedures shall also be applicable to an individual who is training a service animal.

**Service Animal Defined**

A "service animal" for purposes of this procedure means any dog (or miniature horse, as provided herein) that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability.

Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition.

The work or tasks performed by a service animal must be directly related to the handler's disability. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition.

**Exceptions**

The District may ask an individual with a disability to remove a service animal from the premises if:

- The animal is out of control and the animal's handler does not take effective action to control it; or
- The animal is not housebroken.

If a service animal is excluded under one of these exceptions, the District will give the individual with a disability the opportunity to obtain goods, services, and accommodations or to participate in the service, program, or activity without having the service animal on the premises.

**Assessment Factors for Miniature Horses**

The District shall consider the following factors:

- The type, size, and weight of the miniature horse and whether the facility can accommodate these features;
- Whether the handler has sufficient control of the miniature horse;
- Whether the miniature horse is housebroken; and
- Whether the miniature horse's presence in a specific facility compromises legitimate safety requirements that are necessary for safe operation.

### **Control**

The service animal must have a harness, leash, or other tether, unless either the handler is unable because of a disability to use a harness, leash, or other tether, or the use of a harness, leash, or other tether would interfere with the service animal's safe, effective performance of work or tasks, in which case the service animal must be otherwise under the handler's control (e.g., voice control, signals, or other effective means).

### **Care or Supervision**

The District is not responsible for the care or supervision of the animal.

### **Inquiries by the District**

The District may make two inquiries to determine whether an animal qualifies as a service animal:

- Whether the animal is required because of a disability; and
- What work or task the animal has been trained to perform.

The District will not make either of these inquiries when it is readily apparent that an animal is trained to do work or perform tasks for an individual with a disability (e.g., the dog is observed guiding an individual who is blind or has low vision, pulling a person's wheelchair, or providing assistance with stability or balance to an individual with an observable mobility disability).

An individual may choose to produce a county service dog license or identification tag as proof that the animal is a service animal. Licensure or certification is not required in order to meet the definition of service animal under this procedure. There are no licensing or certification requirements for miniature horses.

### **No Surcharge**

The District will not ask or require an individual with a disability to pay a surcharge, even if people accompanied by pets are required to pay fees, or to comply with other requirements generally not applicable to people without pets. If the District normally charges individuals for damage caused by pets, an individual with a disability may be charged for damage caused by their service animal.

### **Legal**

[34 Code of Federal Regulations Part 104.44\(b\)](#)

[28 Code of Federal Regulations Part 36](#)

[28 Code of Federal Regulations Part 35](#)

[The Americans with Disabilities Act of 1990 -- 42 United States Code Sections 12101 et seq.](#)

[Penal Code Section 365.5](#)

[Civil Code Sections 54 et seq.](#)



Book	Board Policies
Section	Chapter 3 - General Institution
Title	Drug-Free Environment and Drug Prevention Program
Code	BP 3550
Status	Active
Adopted	November 9, 1989
Last Revised	January 16, 2025
Prior Revised Dates	12/14/2023

**Board Policy**  
**Chapter 3 - General Institution**

**BP 3550**

**DRUG-FREE ENVIRONMENT AND DRUG PREVENTION PROGRAM**

The District shall be free from all drugs and from the unlawful possession, use, or distribution of illicit drugs and alcohol by students and employees.

The unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in all facilities under the control and use of the District.

Any student or employee who violates this policy will be subject to disciplinary action (consistent with local, state, or federal law), which may include referral to an appropriate rehabilitation program, suspension, demotion, expulsion, or dismissal.

The health risks associated with the use of illicit drugs and the abuse of alcohol include:

- Death including by alcohol poisoning or drug overdose;
- Risk of addiction and withdrawal symptoms including pain, convulsions and depression;
- Liver, heart, kidney, pancreas, and brain damage and/or loss of brain cells;
- Impaired judgment and resulting safety and health risks including accidents, unwanted pregnancies or sexually transmitted diseases, and aggressive or violent behavior;
- Impaired performance including drowsiness, impaired memory, and impaired concentration;
- Sexual dysfunctions;
- Harm to a fetus, including spontaneous abortions, premature labor, and detached placentas;
- Psychological problems including depression, anxiety, paranoia, panic reactions, psychosis and hallucinations;
- Seizures;
- Strokes, cardiac arrest, or cardiovascular problems;
- Lung damage or illnesses, bronchitis, or respiratory arrest, and
- Needle-related illnesses and complications such as hepatitis, HIV, muscle and nervous tissue death necessitating limb amputation, and infections.

The Superintendent/President shall assure that the District distributes annually to each student and employee the information required by the Drug-Free Schools and Communities Act Amendments of 1989 and complies with other requirements of the Act.

The District shall provide educational and preventive information about opioid overdose and information about the use and location of fentanyl test strips and opioid overdose reversal medication to students at all campuses. The superintendent/president shall establish administrative procedures to assure that each campus health center applies to distribute dosages of a federally approved opioid overdose reversal medication and participates in the Naloxone Distribution Project through the State Department of Health Care Services. The superintendent/president shall also establish administrative procedures to assure that upon approval to distribute dosages of a federal approved opioid overdose reversal medication and participation in the Naloxone Distribution Project, each campus health center will distribute a federally approved opioid overdose reversal medication obtained through the Naloxone Distribution Project. The administrative procedures shall also assure each campus health center will stock and distribute fentanyl test strips along with written instructions on how to use the fentanyl test strips properly.

#### Legal

[Drug Free Schools and Communities Act, 20 U.S. Code Section 1011](#)

[34 Code of Federal Regulations Sections 86.1 et seq.](#)

[Drug-Free Workplace Act of 1988, 41 U.S. Code Section 8103](#)

#### Cross References

[BP 3550 - Drug-Free Environment and Drug Prevention Program](#)

[AP 3550 - Drug-Free Environment and Drug Prevention Program](#)

[BP 3560 - Alcoholic Beverages](#)

[AP 3560 - Alcoholic Beverages](#)



Book	Administrative Procedures
Section	Chapter 3 - General Institution
Title	Drug-Free Environment and Drug Prevention Program
Code	AP 3550
Status	Active
Adopted	October 8, 2015
Last Revised	December 10, 2024

**Administrative Procedure**  
**Chapter 3 - General Institution**

**AP 3550**

**Drug-Free Environment and Drug Prevention Program**

The District is committed to providing its employees and students with a drug free workplace and campus environment. It emphasizes prevention and intervention through education.

**Prohibition of Drugs**

The unlawful manufacture, distribution, dispensing, possession, or use of alcohol or any controlled substance is prohibited on District property, during District-sponsored field trips, activities or workshops, and in any facility or vehicle operated by the District.

Violation of this prohibition will result in appropriate action up to and including termination of employment, expulsion, and referral for prosecution, or, as permitted by law, may require satisfactory participation in an alcohol or drug abuse assistance or rehabilitation program.

As a condition of employment, employees must notify the District within five days of any conviction for violating a criminal drug statute while in the workplace. The District is required to inform any agencies that require this drug-free policy within ten days after receiving notice of a workplace drug conviction.

**Student Safety**

The District shall provide, as part of established campus orientations, educational and preventive information provided by the State Department of Public Health about opioid overdose and information about the use and location of fentanyl test strips and opioid overdose reversal medication to students at all campuses. Each campus health center shall apply to distribute dosages of a federally approved opioid overdose reversal medication and participate in the Naloxone Distribution Project administered by the State Department of Health Care Services. Upon approval to distribute dosages of a federal approved opioid overdose reversal medication and participation in the Naloxone Distribution Project, each campus health center will distribute a federally approved opioid overdose reversal medication obtained through the Naloxone Distribution Project. Each campus health center will also stock fentanyl test strips in the campus health center and distribute the fentanyl test strips through the campus health center. The campus health center will distribute written instructions on how to properly use the fentanyl test strips together with the fentanyl test strips.

The District will notify students of the presence and location of fentanyl test strips through a method such as email.

## Drug Prevention Programs

The District has educational health events, workshops and exhibits throughout the academic year that include information on the harmful aspects of illicit drug use and alcohol abuse. The District provides students with prevention information and referrals for treatment for students with drug and alcohol issues. The District works closely with their college communities to share educational programs and events to combat the use of illicit drugs and alcohol abuse by District students. Students may call or come to Student Health Services, Student Affairs Office or Counseling for additional information or help for illicit drug use or alcohol abuse.

The range of health risks associated with the use of illicit drugs and the abuse of alcohol are varied. These health risks can include, but are not limited to: short term illnesses, long-term incurable diseases and/or can result in death.

The health risks associated with the use of illicit drugs and the abuse of alcohol include:

- Death including by alcohol poisoning or drug overdose;
- Risk of addiction and withdrawal symptoms including pain, convulsions and depression;
- Liver, heart, kidney, pancreas, and brain damage and/or loss of brain cells;
- Impaired judgment and resulting safety and health risks including accidents, unwanted pregnancies or sexually transmitted diseases, and aggressive or violent behavior;
- Impaired performance including drowsiness, impaired memory, and impaired concentration;
- Sexual dysfunctions;
- Harm to a fetus, including spontaneous abortions, premature labor, and detached placentas;
- Psychological problems including depression, anxiety, paranoia, panic reactions, psychosis and hallucinations;
- Seizures;
- Strokes, cardiac arrest or cardiovascular problems;
- Lung damage or illnesses, bronchitis, or respiratory arrest, and
- Needle-related illnesses and complications such as hepatitis, HIV, muscle and nervous tissue death necessitating limb amputation, and infections.

Drug or alcohol counseling, treatment, or rehabilitation or re-entry programs or referrals are available to employees or students. The District provides confidential referrals through an Employee Assistance Program (EAP) for employees and their families needing assistance with drug or alcohol abuse. These program can be accessed through the Human Resources Office.

Students should contact the Student Health Center or the Vice President of Student Affairs for resources or for assistance. The Student Health Center also provides counseling, alcohol and drug abuse education information, and resources for students.

Other Online resources of possible interest:

- Alcoholics Anonymous at [www.aa.org/](http://www.aa.org/)
- National Institute of Drug Abuse (NIDA) at [www.drugabuse.gov/nidamed/](http://www.drugabuse.gov/nidamed/)
- National Institute on Alcohol Abuse and Alcoholism at [www.niaaa.nih.gov/](http://www.niaaa.nih.gov/)

## Legal

[Education Code Section 67384](#)

[41 U.S. Code Section 8103](#)

[Federal Drug-Free Workplace Act of 1988](#)

[34 Code of Federal Regulations 86.1 et seq.](#)

[20 U.S. Code Section 1011i](#)

[Drug Free Schools and Communities Act Amendment of 1989](#)







Book	Board Policies
Section	Chapter 3 - General Institution
Title	Non-Smoking Areas
Code	BP 3570
Status	Active
Adopted	December 9, 1982
Last Revised	April 23, 2020
Last Reviewed	January 18, 2024

**Board Policy**  
**Chapter 3 - General Institution**

**BP 3570**

**NON-SMOKING AREAS**

Out of concern for the health, well-being, and safety of all staff and students, the District has designated the interiors of all campus buildings and all exterior areas as non-smoking areas. Smoking on the Napa Valley College campus will be permitted only in specific designated outdoor areas which are at least 30 feet from doorways, windows, and ventilation systems that minimize exposure to second-hand smoke and will not interfere with travel between buildings. Furthermore, if parking lots are used, smoking will not be permitted near the Child Care Center, athletic fields, or the Health Services Clinic. The term smoking in this policy refers to cigarette, cigar, pipe, vaping, or other means of smoking tobacco or other products.

This policy recognizes that smoking can interfere with the academic and work environment and that some individuals are susceptible to injury from prolonged exposure to smoke. In addition, scientific research has documented the harmful effects of second-hand smoke. To help educate the Napa Valley College population about the hazards of tobacco, as funds allow, the college will offer smoking cessation activities. The success of this policy depends on the consideration and cooperation of smokers and nonsmokers. All employees and students share in the responsibility for adhering to and enforcing the policy. Anyone smoking in non-smoking areas should be requested to move to a designated area.

Legal	<u>Government Code Sections 7596</u>
	<u>Government Code Sections 7597</u>
	<u>Government Code Sections 7597.1</u>
	<u>Government Code Sections 7598</u>



Book	Board Policies
Section	Chapter 3 - General Institution
Title	Computer and Network Use
Code	BP 3720
Status	Active
Last Revised	March 27, 1997
Last Reviewed	May 16, 2024

**Board Policy**  
**Chapter 3 - General Institution**

**BP 3720**

**COMPUTER AND NETWORK USE**

Employees and students who use District computers and networks and the information they contain, and related resources, have a responsibility not to abuse those resources and to respect the rights of others. The Superintendent/President shall establish procedures that provide guidelines to students and staff for the appropriate use of information technologies. The procedures shall include that users must respect software copyrights and licenses, respect the integrity of computer-based information resources, refrain from seeking to gain unauthorized access, and respect the rights of other computer users.

Legal	<a href="#"><u>Education Code Section 70902</u></a> <a href="#"><u>17 U.S. Code Sections 101 et seq</u></a> <a href="#"><u>Cal. Const., Art. 1 Section 1</u></a> <a href="#"><u>Penal Code Section 502</u></a> <a href="#"><u>Government Code Section 3543.1(b)</u></a>
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Book	Administrative Procedures
Section	Chapter 3 - General Institution
Title	Computer and Network Use
Code	AP 3720
Status	Active
Adopted	October 10, 2019
Last Reviewed	April 2, 2024

**Administrative Procedure**  
**Chapter 3 - General Institution**

**AP 3720**

**COMPUTER AND NETWORK USE**

The District Computer and Network systems are the sole property of the Napa Valley Community College District. They may not be used by any person without the proper authorization of the District. The Computer and Network systems are intended for District instructional and work related purposes only.

This procedure applies to all District students, faculty, and staff and to others granted use of District information resources. This procedure refers to all District information resources whether individually controlled or shared, stand-alone or networked. It applies to all computer and computer communication facilities owned, leased, operated, or contracted by the District. This includes, but is not limited to, electronic mail, Internet and intranet service, District operated social media sites, voice mail, audio and video communications, facsimile messages, personal computers, workstations, laptops, tablets, cell phones, mainframes, virtual hosts, virtual machines, minicomputers/servers, and associated peripherals, software and information resources including offsite storage, regardless of whether used for administration, research, teaching, or other purposes.

**Conditions of Use**

Individual units within the District may define additional conditions of use for information resources under their control. These statements must be consistent with this overall procedure but may provide additional detail, guidelines, or restrictions.

**Discipline and Legal Process**

This procedure exists within the framework of the District Board Policy and state and federal laws. A user of District information resources who is found to have violated any of these policies will be subject to disciplinary action up to and including but not limited to loss of information resources privileges; disciplinary suspension or termination from employment or expulsion; or civil or criminal legal action. Also see BP/AP 7360 Discipline and Dismissals – Contract/Regular Faculty (Academic Employees), BP/AP 7365 Discipline and Dismissals – Classified Employees, and BP/AP 5500 Standards of Student Conduct.

**Copyrights, Licenses, and Ownership**

Computer users must respect copyrights and licenses to software and other on-line information.

Copying - Software protected by copyright may not be copied except as expressly permitted by the owner of the copyright or otherwise permitted by copyright law. Protected software may not be copied into, from, or by any District facility or system, except pursuant to a valid license or as otherwise permitted by copyright law.

Number of Simultaneous Users - The number and distribution of copies must be handled in such a way that the number of simultaneous users in a department does not exceed the number of original copies purchased by that department, unless otherwise stipulated in the purchase contract.

**Copyrights** - In addition to software, all other copyrighted information (text, images, icons, programs, etc.) retrieved from computer or network resources must be used in conformance with applicable copyright and other law. Copied material must be properly attributed. Plagiarism of computer information is prohibited in the same way that plagiarism of any other protected work is prohibited. Also see BP/AP 3710 Securing of Copyright.

**Ownership** - BP/AP 3720 is based upon and shall be interpreted according to the following fundamental principle: the entire District Network, and all hardware and software components within it, is the sole property of the District which sets the terms and conditions of its use consistent with the law. Except as provided in other Board Policy pertaining to intellectual property rights, employees and students have no rights of ownership to these systems or to the information they contain by virtue of their use of all or any portion of the District Network. Also see BP/AP 3715 Intellectual Property.

### **Integrity of Information Resources**

Computer users must respect the integrity of computer-based information resources.

**Modification or Removal of Equipment** - Computer users must not attempt to modify or remove computer equipment, software, or peripherals that are owned by others without proper authorization.

**Unauthorized Use** - Computer users must not interfere with others access and use of the District computers. This includes but is not limited to: the sending of chain letters or excessive messages, either locally or off-campus; utilization of distribution lists, either local or external, outside of their work-related purpose or guidelines; printing excess copies of documents, files, data, or programs, running grossly inefficient programs when efficient alternatives are known by the user to be available; unauthorized modification of system facilities, operating systems, or disk partitions; attempting to crash or tie up a District computer or network; and damaging or vandalizing District computing facilities, equipment, software or computer files.

**Unauthorized Programs** - Computer users must not intentionally develop or use programs which disrupt other computer users or which access private or restricted portions of the system, or which damage the software or hardware components of the system. Computer users must ensure that they do not use programs or utilities that interfere with other computer users or that modify normally protected or restricted portions of the system or user accounts. The use of any unauthorized or destructive program will result in disciplinary action as provided in this procedure, and may further lead to civil or criminal legal proceedings.

**Unauthorized Access** - Computer users must not seek to gain unauthorized access to information resources and must not assist any other persons to gain unauthorized access.

**Abuse of Computing Privileges** - Users of District information resources must not access computers, computer software, computer data, or information, or networks without proper authorization, or intentionally enable others to do so, regardless of whether the computer, software, data, information, or network in question is owned by the District. For example, abuse of the networks to which the District belongs or the computers at other sites connected to those networks will be treated as an abuse of District computing privileges.

**Reporting Problems** - Any defects discovered in system accounting or system security must be reported promptly to the appropriate system administrator so that steps can be taken to investigate and solve the problem.

**Password Protection** - A computer user who has been authorized to use a password-protected account may be subject to both civil and criminal liability if the user discloses the password or otherwise makes the account available to others without permission of the system administrator.

**Usage** - Computer users must respect the rights of other computer users. Attempts to circumvent these mechanisms in order to gain unauthorized access to the system or to another person's information are a violation of District procedure and may violate applicable law.

**Unlawful Messages** - Users may not use electronic communication facilities to send defamatory, fraudulent, harassing, obscene, threatening, or other messages that violate applicable federal, state or other law or District policy, or which constitute the unauthorized release of confidential information.

**Commercial Usage** - Electronic communication facilities may not be used to transmit commercial or personal advertisements, solicitations or promotions (see Commercial Use, below). Some public discussion groups have been designated for selling items and may be used appropriately, according to the stated purpose and guidelines of the group(s).

**Information Belonging to Others** - Users must not intentionally seek or provide information on, obtain copies of, or modify data files, programs, or passwords belonging to other users, without the permission of those other users.

**Rights of Individuals** - Users must not release any individual's (student, faculty, or staff) personal information to anyone without proper authorization. Also see BP/AP 5040 Student Records, Directory Information, and Privacy.

**User identification** - Users shall not send communications or messages anonymously or without accurately identifying the originating account or station.

### **Political, Personal, and Commercial Use**

The District is a non-profit, tax-exempt organization and, as such, is subject to specific federal, state and local laws regarding sources of income, political activities, use of property and similar matters.

**Political Use** - District information resources must not be used for partisan political activities where prohibited by federal, state, or other applicable laws.

**Personal Use** - District information resources should not be used for personal activities not related to District functions, except in a purely incidental manner. For District employees, the intended uses of the District Network are those which are reasonable and necessary for the pursuit of job duties; for students, the intended uses are those which are reasonable and necessary for the pursuit of instructional activities. Although personal use is not an intended use, the District recognizes that the Network will be used for incidental personal activities provided that such use is within reason and provided that such usage is ordinarily on an employee's own time, is occasional, and does not interfere with or burden the District's operation. If the District otherwise grants access to the District's email system for personal use, employees may use the District's email system to engage in protected concerted activity during non-work time.

**Public Use** - The Napa Valley Community College District has computers available in designated areas to serve the educational, informational, and recreational needs of the community and have been identified for "public use". On selected computers access is provided to Internet and library resources such as reference databases of general and special periodical materials as well as archival information. Material on the Internet is not pre-screened, monitored, censored, endorsed or ratified by the District. The District waives any responsibility for content accessible from the Internet. Public use computers may have additional conditions for use, but the fundamental principles related to legal compliance, integrity of information resources, nondiscrimination, and general disclosure as outlined in this procedure are considered applicable to any such users who have been granted use of District computers and network resources. Violations may result in revocation of utilization privileges and/or immediate termination of the violator's relationship with the District and could lead to civil or criminal prosecution.

**Commercial Use** - District information resources should not be used for commercial purposes. Users also are reminded that the ".cc" and ".edu" domains on the Internet have rules restricting or prohibiting commercial use, and users may not conduct activities not authorized within those domains.

### **Nondiscrimination**

All users have the right to be free from any conduct connected with the use of the Napa Valley Community College District network and computer resources which discriminates against any person on the basis of national origin, religion, age, gender, gender identity, gender expression, race, color, medical condition, genetic information, ancestry, sexual orientation, marital status, physical or mental disability, pregnancy, or military and veteran status, or because he/she is perceived to have one or more of the foregoing characteristics, or because of his/her association with a person or group with one or more of these actual or perceived characteristics. No user shall use the District network and computer resources to transmit any message, create any communication of any kind, or store information which violates any District procedure regarding discrimination or harassment, or which is defamatory or obscene, or which constitutes the unauthorized release of confidential information. Also see BP/AP 3410 Nondiscrimination.

### **Disclosure**

**No Expectation of Privacy** - The District reserves the right to monitor all use of the District network and computer to assure compliance with this procedure and the related policy. Users should be aware that they have no expectation of privacy in the use of the District network and computer resources. The District will exercise this right only for legitimate District purposes, including but not limited to ensuring compliance with this procedure and the integrity and security of the system.

**Possibility of Disclosure** - Users must be aware of the possibility of unintended disclosure of communications.

Retrieval - It is possible for information entered on or transmitted via computer and communications systems to be retrieved, even if a user has deleted such information.

Public Records - The California Public Records Act (Government Code Sections 6250 et seq.) includes computer transmissions in the definition of "public record" and nonexempt communications made on the District network or computers must be disclosed if requested by a member of the public. Also see BP/AP 3300 Public Records.

Litigation - Computer transmissions and electronically stored information may be discoverable in litigation.

Loss of data - The District assumes no responsibility for the loss of data on individual owned or district owned computer and computer communication systems due to computer viruses or other destructive software, or as a result of flaws in the application or operating system software.

Electronic Communication Limitations - The District cannot protect users from receiving electronic communications they may find offensive, nor can the District guarantee the authenticity of electronic communications received, or that electronic communications received were in fact sent by the purported sender. Users are responsible for materials they access and disseminate on the District's computer and electronic communication systems.

Authorized use by minors - All students under the age of eighteen, by accepting the benefits of authorized use of the District's technology resources, acknowledge that material inappropriate for minors is accessible on the Internet; that various wrongdoing, such as identity theft, invasion of privacy and fraud, may occur on the Internet, and that their use of the Internet may therefore expose them to a variety of risks of harm to person or property. By using the District's technology resources, minors and their parents accept responsibility for any and all risks thereof and acknowledge that the District shall not be responsible for any harm or damage resulting from such use.

#### **Dissemination and User Acknowledgment**

All users shall be provided copies of these procedures and be directed to familiarize themselves with them.

Users shall sign and date an acknowledgment and waiver stating that they will comply.

Legal

[17 U.S. Code Sections 101 et seq](#)

[Cal. Const., Art. 1 Section 1](#)

[Penal Code Section 502](#)

[Government Code Section 3543.1\(b\)](#)

[Government Code Section 6250 et seq. \(California Public Records Act\)](#)

[Federal Rules of Civil Procedure, Rule 45](#)

[Federal Rules of Civil Procedure, Rule 37](#)

[Federal Rules of Civil Procedure, Rule 34](#)

[Federal Rules of Civil Procedure, Rule 33](#)

[Federal Rules of Civil Procedure, Rule 26](#)

[Federal Rules of Civil Procedure, Rule 16](#)

# Your Employee Rights Under the Family and Medical Leave Act

## What is FMLA leave?

The Family and Medical Leave Act (FMLA) is a federal law that provides eligible employees with **job-protected leave** for qualifying family and medical reasons. The U.S. Department of Labor's Wage and Hour Division (WHD) enforces the FMLA for most employees.

Eligible employees can take up to **12 workweeks** of FMLA leave in a 12-month period for:

- The birth, adoption or foster placement of a child with you,
- Your serious mental or physical health condition that makes you unable to work,
- To care for your spouse, child or parent with a serious mental or physical health condition, and
- Certain qualifying reasons related to the foreign deployment of your spouse, child or parent who is a military servicemember.

An eligible employee who is the spouse, child, parent or next of kin of a covered servicemember with a serious injury or illness **may take up to 26 workweeks** of FMLA leave in a single 12-month period to care for the servicemember.

You have the right to use FMLA leave in **one block of time**. When it is medically necessary or otherwise permitted, you may take FMLA leave **intermittently in separate blocks of time, or on a reduced schedule** by working less hours each day or week. Read Fact Sheet #28M(c) for more information.

FMLA leave is **not paid leave**, but you may choose, or be required by your employer, to use any employer-provided paid leave if your employer's paid leave policy covers the reason for which you need FMLA leave.

## Am I eligible to take FMLA leave?

You are an **eligible employee** if **all** of the following apply:

- You work for a covered employer,
- You have worked for your employer at least 12 months,
- You have at least 1,250 hours of service for your employer during the 12 months before your leave, and
- Your employer has at least 50 employees within 75 miles of your work location.

Airline flight crew employees have different "hours of service" requirements.

You work for a **covered employer** if **one** of the following applies:

- You work for a private employer that had at least 50 employees during at least 20 workweeks in the current or previous calendar year,
- You work for an elementary or public or private secondary school, or
- You work for a public agency, such as a local, state or federal government agency. Most federal employees are covered by Title II of the FMLA, administered by the Office of Personnel Management.

## How do I request FMLA leave?

Generally, to request FMLA leave you **must**:

- Follow your employer's normal policies for requesting leave,
- Give notice at least 30 days before your need for FMLA leave, or
- If advance notice is not possible, give notice as soon as possible.

You **do not have to share a medical diagnosis** but must provide enough information to your employer so they can determine whether the leave qualifies for FMLA protection. You **must also inform your employer if FMLA leave was previously taken** or approved for the same reason when requesting additional leave.

Your employer **may request certification** from a health care provider to verify medical leave and may request certification of a qualifying exigency.

The FMLA does not affect any federal or state law prohibiting discrimination or supersede any state or local law or collective bargaining agreement that provides greater family or medical leave rights.

State employees may be subject to certain limitations in pursuit of direct lawsuits regarding leave for their own serious health conditions. Most federal and certain congressional employees are also covered by the law but are subject to the jurisdiction of the U.S. Office of Personnel Management or Congress.

## What does my employer need to do?

If you are eligible for FMLA leave, your employer **must**:

- Allow you to take job-protected time off work for a qualifying reason,
- Continue your group health plan coverage while you are on leave on the same basis as if you had not taken leave, and
- Allow you to return to the same job, or a virtually identical job with the same pay, benefits and other working conditions, including shift and location, at the end of your leave.

Your employer **cannot interfere with your FMLA rights** or threaten or punish you for exercising your rights under the law. For example, your employer cannot retaliate against you for requesting FMLA leave or cooperating with a WHD investigation.

After becoming aware that your need for leave is for a reason that may qualify under the FMLA, your employer **must confirm whether you are eligible** or not eligible for FMLA leave. If your employer determines that you are eligible, your employer **must notify you in writing**:

- About your FMLA rights and responsibilities, and
- How much of your requested leave, if any, will be FMLA-protected leave.

## Where can I find more information?

Call 1-866-487-9243 or visit [dol.gov/fmla](http://dol.gov/fmla) to learn more.

If you believe your rights under the FMLA have been violated, you may file a complaint with WHD or file a private lawsuit against your employer in court. **Scan the QR code to learn about our WHD complaint process.**



WAGE AND HOUR DIVISION  
UNITED STATES DEPARTMENT OF LABOR

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