

GENERAL INSTITUTION

AP 3435 DISCRIMINATION AND HARASSMENT COMPLAINTS AND INVESTIGATIONS

References:

Education Code Sections 212.5, 231.5, 66281.5, and 67386;
Government Code Section 12950.1;
Title 5 Sections 59320, 59324, 59326, 59328, and 59300 et seq.;
Title 2 Sections 11023 and 11024

NOTE: 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.

Reporting and Filing Complaints

The law prohibits, employees, supervisors, administrators, and third parties with whom an employee comes into contact from engaging in harassment, discrimination, or retaliation. Any person who has suffered harassment, discrimination, or retaliation, or who has learned of harassment, discrimination, or retaliation, may report harassment, discrimination, or retaliation. Complainants may have the option of filing an informal complaint or formal complaint.

Informal Complaints

An informal complaint is any of the following:

1. a written or verbal complaint alleging harassment, discrimination, or retaliation filed by an individual who expressly indicates that they do not want to file a formal complaint, or
2. a written or verbal allegation of harassment, discrimination, or retaliation that falls outside the timelines for a formal complaint.

Any person may submit an informal complaint to the Vice President for Human Resource Services or designee, or any other District administrator or supervisor. Administrators or supervisors receiving an informal complaint shall immediately notify the Vice President for Human Resource Services or designee in writing of all pertinent information and facts alleged in the informal complaint.

Upon receipt of an informal complaint, the Vice President for Human Resource Services or designee will notify the person bringing the informal complaint of their right to file a formal complaint, whether the incident falls within the timeline for a formal complaint, and the procedures for filing a formal complaint. The Complainant may later decide to

file a formal complaint, if within the timelines to do so. If the Complainant chooses not to file a formal complaint, or if the alleged conduct falls outside the timeline to file a formal complaint, the Vice President for Human Resource Services or designee shall consider the allegations contained in the informal complaint and determine the appropriate course of action. These efforts may include an attempt to informally resolve the matter, or a fact-finding investigation.

Investigation of an informal complaint will be appropriate if the Vice President for Human Resource Services or designee determines that the allegation(s), if proven true, would constitute a violation of BP 3430 Prohibition of Harassment. The Vice President for Human Resource Services or designee will explain to any individual bringing forth an informal complaint that the Vice President for Human Resource Services or designee may decide to initiate an investigation, even if the individual does not wish the Vice President for Human Resource Services or designee to do so. The Vice President for Human Resource Services or designee shall not disregard any allegations of harassment, discrimination, or retaliation solely on the basis that the alleged conduct falls outside the deadline to file a formal complaint.

Formal Complaints

A formal complaint is a written or verbal statement filed with the District that alleges harassment, discrimination, or retaliation in violation of the District's Board Policies or Administrative Procedures, or in violation of state or federal law. Formal complaints must be filed with the Vice President for Human Resource Services or designee unless the party submitting the formal complaint alleges discrimination, harassment, or retaliation against the responsible District officer (the Vice President for Human Resource Services or designee) in which case it should be submitted directly to the District's Superintendent/President.

The District may request, but shall not require, the Complainant to submit a formal complaint on the form prescribed by the Chancellor of the California Community Colleges. A copy of the form will be available on the District's website, or may be requested in person or by mail from the Human Resource Services Department. A Complainant shall report verbal complaints to the Vice President for Human Resource Services or designee. The Vice President for Human Resource Services or designee shall record the verbal complaint in writing and will take steps to ensure the writing accurately reflects the facts alleged by the Complainant.

A formal complaint must meet each of the following criteria:

- The formal complaint 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 file any formal complaint not involving employment within one (1) year of the date of the alleged discriminatory, harassing, or retaliatory conduct, or within one (1) 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 be extended 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 Vice President for Human Resource Services or designee will promptly contact the Complainant and specify the defect. If the sole defect is that the formal complaint was filed outside the applicable proscribed timeline, the Vice President for Human Resource Services or designee will handle the matter as an informal complaint.

Oversight of Complaint Procedure: The Vice President for Human Resource Services or designee is the "responsible District officer" charged with receiving complaints of discrimination or harassment and coordinating their investigation.

The actual investigation of complaints may be assigned by the Vice President for Human Resource Services or designee to other staff, or to outside persons or organizations under contract with the District. This shall occur whenever the Vice President for Human Resource Services or designee is named in the complaint or implicated by the allegations in the complaint.

Who May File a Formal Complaint: Any student, employee, parent of a minor, or an individual with legal authority on behalf of a student or employee who believes the student or employee has been discriminated against, harassed, and/or experienced retaliation by a student, employee, or third party in violation of this procedure and the related policy.

Where to File a Formal Complaint: A student, employee, parent of a minor, or an individual with legal authority on behalf of a student or employee who believes the student or employee has been discriminated against, harassed, and/or experienced retaliation in violation of these policy and procedures may make a complaint orally or in writing directed to the Vice President, Human Resource Services or designee. Complainants may, but are not required to, use the form prescribed by the Chancellor of the California Community Colleges. This form is available from the Vice President for Human Resource Services or designee and at the California Community Colleges Chancellor's Office website.

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).

Any District employee who receives a harassment, discrimination, or retaliation complaint shall notify the Vice President for Human Resource Services or designee immediately.

Filing a Timely Complaint: 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, discriminated, or retaliated 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 administrators and supervisors 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 at non-District locations if they are related to an academic or work activity or if the harassing, discriminatory, or retaliatory conduct interferes with or limits a student's or employee's ability to participate in or benefit from the District's programs or activities.

When Conduct is Unwelcome: The District encourages students and employees to tell the offending person immediately and firmly that the conduct or behavior is unwelcome, offensive, in poor taste, or inappropriate. Alternatively, if an individual is uncomfortable addressing the offending person, they are encouraged to communicate the incident to a supervisor, administrator, faculty member, or Human Resources.

Intake and Processing of the Complaint: Upon receiving notification of a harassment, discrimination, or retaliation complaint, the Vice President for Human Resource Services or designee shall:

- Consider whether the District can undertake efforts to informally resolve the charges, including, but not limited, to mediation, rearrangement of work/academic schedules, obtaining apologies, providing informal counseling, training, and/or other appropriate measures.
- Advise all parties that they need not participate in an informal resolution of the complaint, as described above, and that they have the right to end the informal resolution process at any time.

- Advise a student Complainant that they may file a complaint with the Office for Civil Rights of the U.S. Department of Education.
- Advise employee Complainants that they may file a complaint with the DFEH and/or the EEOC.
- 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 the complaint pursuant to this procedure even if the Complainant files a complaint with local law enforcement.
- In addition, the District will provide resources to Complainants, such as counseling, health, and mental health services. The Vice President for Human Resource Services or designee shall also notify the California Community Colleges Chancellor's Office of the complaint pursuant to Title 5, Sections 59300 et seq.
- 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 Vice President for Human Resource Services or designee shall notify the Complainant of their options to avoid contact with the accused individual and allow students to change academic situations as appropriate. For instance, the District may prohibit the accused individual from having any contact with the 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 while allowing accused individuals to remain.

Investigation

The Vice President for Human Resource Services or designee 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 the Complainant opts for informal resolution, the Vice President for Human Resource Services or designee 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 Respondent, and any other persons who may have relevant knowledge concerning the complaint. This may include victims/survivors of similar conduct.
- Review the factual information gathered through the investigation to determine whether the alleged conduct constitutes harassment, retaliation, 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, discrimination, or retaliation. No claim shall remain unexamined. This includes complaints involving activities that occur 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 vehicle or at a non-District location. The District shall promptly investigate complaints of harassment or discrimination that occur at non-District locations if the alleged conduct creates a hostile environment at a District location. The District shall notify the Complainant that the District will commence an impartial fact-finding investigation of the allegations contained in the complaint.

As set forth above, where the parties opt for an informal resolution, the Vice President for Human Resource Services or designee may limit the scope of the investigation, as appropriate. The District will keep the investigation confidential to the extent possible but cannot guarantee absolute confidentiality because release of some information on a “need-to-know-basis” is essential to a thorough investigation. When determining whether to maintain confidentiality, the District may weigh the request for confidentiality against the following factors: the seriousness of the alleged; incident(s); the Complainant’s age; whether there have been other discrimination, harassment, or retaliation complaints about the same individual; and the Respondent’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, discrimination, and retaliation complaints. Employees designated to serve as investigators under this policy shall have adequate training on what constitutes sexual harassment and unlawful discrimination, 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 to investigate complaints:

- 1) Interviewing the Complainant(s); interviewing the Respondents; identifying and interviewing witnesses identified by each party; and identifying and interviewing any other witnesses not identified by the parties if needed.
- 2) Reminding all individuals interviewed of the District’s no-retaliation policy.
- 3) Considering whether any involved person should be removed from the District pending completion of the investigation.

- 4) Reviewing all evidence presented by the parties and all other evidence relevant to the investigation.
- 5) Reviewing the personnel and/or academic files of all involved parties.
- 6) Reaching a conclusion as to the allegations and whether disciplinary and remedial action is appropriate. The Office of Student Affairs shall be responsible for determining appropriate disciplinary and remedial action against students, and the Vice President for Human Resource Services or designee shall be responsible for determining appropriate disciplinary and remedial action against employees.
- 7) Ensuring that all recommended action is carried out in a timely fashion.
- 8) When the District evaluates the complaint, it shall do so using the standard of a preponderance of the evidence. 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 as 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 Expected: All employees are expected to cooperate with District investigations into allegations of harassment, discrimination, or retaliation. Lack of cooperation impedes the ability of the District to investigate thoroughly and respond effectively. Lack of cooperation by a Complainant or witnesses, however, does not relieve the District of its obligation to investigate. The District will conduct an investigation if it is discovered that harassment, discrimination, or retaliation is, or may be occurring, with or without the cooperation of the alleged victim(s)/survivor(s) and regardless of whether a complaint is filed. The District will not allow any employee to experience retaliation as a result of lodging a complaint or participating in any workplace investigation.

Written Report: The results of the investigation of a formal 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 description of the procedural steps taken during the investigation, including all individuals contacted and interviewed;
- A summary of the testimony provided by each interviewee, including the Complainant, Respondent, and any available witnesses interviewed;
- An analysis of relevant evidence collected during the course of the investigation, including a list of relevant documents;

- A specific finding as to whether each factual allegation in the complaint occurred based on the preponderance of the evidence standard;
- A table of contents if the report exceeds ten pages, 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. Confidentiality is also necessary to protect the rights of student and employee Complainants and Respondents 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 summary of the investigation report and written notice to the Complainant setting forth all of the following:

- The Superintendent/President’s or designee’s determination as to whether unlawful discrimination occurred with respect to each allegation in the complaint based on the standard of a preponderance of the evidence;
- In the event that an allegation is substantiated, a description of actions taken, if any, to prevent similar acts of unlawful discrimination from occurring in the future;
- The proposed resolution of the complaint;
- The Complainant’s right to appeal the determination to the District’s Governing Board and the California Community Colleges Chancellor’s Office, and
- In matters involving student sexual misconduct, the Respondent’s right to appeal to the District’s Governing Board any disciplinary sanction imposed upon the Respondent.

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

- The Superintendent/President or designee’s determination as to whether unlawful discrimination occurred with respect to each allegation in the complaint based on the standard of preponderance of the evidence;
- If an allegation is substantiated, a description of actions taken, if any, to prevent similar acts 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 DFEH and/or EEOC.

In any case involving employment discrimination, the District shall also provide the Respondent with the following:

- The Superintendent/President or their designee's determination as to whether unlawful discrimination occurred with respect to each allegation in the complaint based on the standard of a preponderance of the evidence;
- The proposed resolution of the complaint, including any disciplinary action against the Respondent; and
- In matters involving student sexual misconduct not subject to Title IX, the Respondent's right to appeal to the District's Governing Board any disciplinary sanction(s) imposed upon the Respondent.

Discipline for Student Sexual Misconduct Not Subject to Title IX

In a complaint involving student sexual misconduct not subject to Title IX, if a student Respondent is subject to severe disciplinary sanctions, and the credibility of witnesses was central to the investigative findings, the District will provide an opportunity for the student Respondent to cross-examine witnesses indirectly at a live hearing, either in person or by videoconference. The live hearing will be conducted by a neutral decision-maker other than the investigator. Hearings for student Respondents will be conducted by the Assistant Superintendent/Vice President, Student Services or designee. Hearings for employee Respondents will be conducted by the Vice President for Human Resource Services or designee.

The District shall appoint a neutral third party to attend the hearing solely for the purpose of asking any questions to the interviewees, including the Complainant. The neutral third party shall not be the student Respondent, the student Respondent's representative, or any individual charged with making a final determination regarding discipline. The student Respondent may submit written questions before and during the cross-examination, including any follow-up questions. The neutral third party asking questions shall not exclude any questions unless there is an objection to the question by any individual present charged with making a final determination regarding discipline.

Discipline and Corrective Action

If harassment, discrimination, or retaliation occurred in violation of District policy or procedure, the District shall take disciplinary action against the Respondent and any other remedial action it determines to be appropriate consistent with state and federal law. The action will be prompt, effective, and commensurate with the severity of the offense. Remedies for the Complainant will be arranged to meet their needs, and might include, but are not limited, to:

Date Adopted: 2/2/2021; Revised:

- Providing an escort to ensure that the Complainant can move safely between classes and activities;
- Ensuring that the Complainant and Respondent do not attend the same classes or work in the same work area;
- Preventing offending third parties from entering campus;
- Providing counseling services through the District or a referral to counseling services available outside of the District;
- Providing medical services through the District or a referral to medical services outside of the District;
- 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 determine if there is a causal connection between the alleged 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. The District may disclose information about the sanction imposed on an individual who was found to have engaged in unlawful discrimination when the sanction directly relates to the Complainant; for example, the District may inform the Complainant that the Respondent must stay away from the Complainant.

Disciplinary actions will conform to all relevant statutes, regulations, personnel policies and procedures, and will include the provisions of any applicable collective bargaining agreement or employee handbook.

The District shall also take reasonable steps to protect the Complainant from further unlawful 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 issues, including retaliation, and will follow up with Complainants during and after the conclusion of an investigation to determine whether any retaliation or new incidents of unlawful discrimination have occurred.

If the District cannot take disciplinary action against the Respondent 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 appeals procedure.

If the Complainant is not satisfied with the results of the administrative determination, they may, within 30 days, submit a written appeal to the Governing Board.

In a complaint involving student sexual misconduct not subject to Title IX, a Respondent who is not satisfied with the results of the administrative determination may submit a written appeal to the District's Governing Board within 30 calendar days by submitting the appeal to the President's Office.

The Governing Board shall review the original complaint, the investigative report, the administrative determination, and the Respondent's appeal. The Governing Board shall issue a final District decision in the matter within 45 calendar days after receiving the Respondent's appeal. A copy of the decision rendered by the Governing Board shall be forwarded to the Complainant and the Respondent. The Complainant shall also be notified of their right to appeal this decision.

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

In any case not involving, unlawful discrimination based on employment, the Complainant shall have the right to file a written appeal with the California Community Colleges Chancellor's Office within 30 calendar days after the Governing 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 unlawful discrimination based on employment, the Complainant may, at any time before or after the issuance of the District's final decision file a complaint with the and/or EEOC.

Remand

The California Community College Chancellor's Office may remand any matter of unlawful discrimination to the District for any of the following reasons:

- a. cure defects in the investigation or in procedural compliance;
- b. to consider new evidence not available during the investigation despite the Complainant's due diligence that would substantially impact the outcome of the investigation; or,
- c. to modify or reverse a decision of the District's Governing Board based upon misapplication of an applicable legal standard or an abuse of discretion.

If the California Community College Chancellor's Office remands a matter to the District, the District shall take necessary action and issue a decision after remand within 60 calendar days. In any case not involving employment discrimination, the Complainant may appeal the District's amended determination to the California Community College Chancellor's Office within 30 calendar days by following the appeal procedures above.

Extension of Time

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

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

The District shall send a written notice to the Complainant and to a Respondent who is aware of an investigation indicating the following: a) the necessity of an extension, b) the justification for the extension, and c) the number of days by which the deadline will be extended. The District shall send this notice no later than 10 calendar days prior to the 90-day deadline for completing the investigation and issuing and issuing the administrative determination.

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

Disclosures to the California Community Colleges Chancellor's Office

Upon request of the California Community Colleges Chancellor's Office, the District shall provide copies of all documents related to an unlawful discrimination complaint, including the following:

- The original complaint;
- Any investigative report, unless subject to attorney-client privilege;
- The written notice to the Complainant setting forth the results of the investigation and the District's administrative determination;

- The final decision rendered by the Governing Board following an appeal decision or a statement indicating the date upon which the Governing Board’s decision became final;
- A copy of the notification to the Complainant of their appeal rights, the Complainant’s appeal of the District’s administrative determination, if one was filed; and
- Any other non-privileged documents or information the Chancellor requests.

The District shall provide to the California Community Colleges Chancellor’s Office an annual report with the following information:

- The number of employment and non-employment unlawful discrimination, harassment, and retaliation complaints and informal charges received in the previous academic year;
- The number of complaints and informal charges resolved in the previous academic year;
- The number of unlawful discrimination complaints that were sustained in whole or in part; and
- Any other information requested by the Chancellor.

File Retention

The District will retain on file for a period of at least five (5) years after closing an unlawful discrimination matter copies of:

- The original complaint;
- The investigation report;
- The summary of the investigation report if one is prepared;
- The notice provided to the parties of the District’s administrative determination and the right to appeal;
- Any appeal submitted; and
- The District’s final decision rendered by the Governing Board for any appeal.

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

Dissemination of Policy and Procedures

District policies and procedures related to unlawful discrimination will include information that specifically addresses sexual violence. All of these District policies and procedures will be provided to all students and employees and will be posted on on the District’s website and disseminated throughout the District.

When hired, employees will be required to sign an acknowledgement agreement that they have received the policies and procedures, and the signed agreement will be placed in each employee's personnel file. In addition, these policies and procedures will be incorporated into the District's course catalogs, class schedules, 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 non-supervisory employees. All new employees must be provided with the training and education within six (6) 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 (2) years. An employee who first received this training and education in 2019 is not required to take the training again until after two (2) 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 following topics:

- Prohibition against and the prevention and correction of sexual harassment, including sexual violence, and the remedies available to victims and survivors of sexual harassment in employment;
- A review of the concept of abusive conduct;
- Harassment and discrimination based on gender, gender identity, gender expression, and sexual orientation.
- The training and education for supervisory employees shall also include practical examples aimed at instructing supervisors in the prevention of harassment, discrimination, and retaliation.
- The supervisory 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.

These trainings shall be presented by trainers or educators with knowledge and expertise in the prevention of harassment, discrimination, and retaliation. 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 or training rosters, copies of all certificates of attendance or other proof of completion, the type of training provided (i.e., in person or online), 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 and all written materials used in conjunction with the training

The District will provide copies of the sexual harassment and sexual violence policies and procedures to all District employees in the Palomar College Police Department, to include 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 to any District policy and/or procedure regarding unlawful discrimination, sexual harassment, or sexual violence, all District employees will receive a copy of the revised policies and procedures.

Education and Prevention for Students

In order to take proactive measures to prevent sexual harassment and sexual 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 at a minimum, and may provide additional trainings to other academic or student programs deemed appropriate or necessary by the District. These programs will include discussion of what constitutes sexual harassment and sexual violence; the District's relevant policies and procedures; and the consequences of violating these policies, including discipline. A training program and/or informational services or campaigns will be made available to all students at least once annually during the academic year.

These programs will also include information aimed at encouraging students to report incidents of sexual harassment and sexual violence to the appropriate District and law enforcement authorities. Since victims/survivors or third parties may be deterred from reporting incidents if alcohol, drugs, or other violations of District policies, procedures, or 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 harassment or sexual violence. If other policies, procedures, or rules of the District are violated, the District will address such violations separately from an allegation of sexual harassment or sexual violence.