



Policy

3435 Discrimination and Harassment Complaints and Investigations

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

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. The District will ensure that this administrative procedure conforms to the due process requirements of state and federal laws and regulations, and to the requirements of YCCD Board Policy 3-8020 Due Process.

Cross References (see also):

- YCCD Policy 3430 – Prohibition of Harassment
- YCCD Policy 3433 – Prohibition of Sexual Harassment under Title IX
- YCCD Policy 3434 – Responding to Harassment Based on Sex under Title IX
- YCCD Policy 3540 – Sexual and Other Assaults on Campus
- YCCD Policy 3-8020 – Due Process
- YCCD Policy 5500 – Standards of Student Conduct
- YCCD Policy 5530 – Complaint Policy
- YCCD Policy 7700 – Whistleblower Protection

References:

Collective Bargaining Agreements and Leadership Team Handbook

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Administrative Procedure

3435 Discrimination and Harassment Complaints and Investigations

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. The District will ensure that this administrative procedure conforms to the due process requirements of state and federal laws and regulations, and to the requirements of YCCD Board Policy 3-8020 Due Process.

I. Reporting and Filing 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 perceives they have 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.

A. Informal Complaints

An informal complaint is any of the following: (1) a written allegation of harassment, discrimination, or retaliation that falls outside the timelines for a formal complaint; or (2) a written complaint alleging harassment, discrimination, or retaliation filed by an individual who expressly indicates that he/she/they does not want to file a formal complaint.

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

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

Investigation of an informal complaint will be appropriate if the Senior Director of Human Resources determines that the allegation(s), if proven true, would constitute a violation of the District policy prohibiting harassment, discrimination, or retaliation. The Senior Director of Human Resources will explain to any individual bringing an informal complaint that the Senior Director of Human Resources may decide to initiate an investigation, even if the individual does not wish the Senior Director of Human Resources to do so. The Senior Director of Human Resources shall not disregard any allegations of harassment, discrimination, or retaliation solely on the basis that the alleged conduct falls outside the deadline to file a formal complaint.

B. Formal Complaints

1 A formal complaint is a written or verbal statement filed with the District that alleges harassment,
2 discrimination, or retaliation in violation of the District's Board Policies, Administrative
3 Procedures, or in violation of state or federal law. Formal Complaints must be filed with the Senior
4 Director of Human Resources unless the Party submitting the Formal Complaint alleges
5 discrimination, harassment, or retaliation against the responsible District officer, in which case it
6 should be submitted directly to the Chancellor.

7
8 The District may request, but shall not require the Complainant to submit a formal complaint on
9 the form prescribed by the State Chancellor's Office. A copy of the form is available at the District
10 website. A Complainant shall report verbal complaints to the Senior Director of Human
11 Resources. The Senior Director of Human Resources shall record the verbal complaint in writing.
12 The Senior Director of Human Resources will take steps to ensure the writing accurately reflects
13 the facts alleged by the Complainant.

14
15 A Formal Complaint must meet each of the following criteria:

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

30
31 If the Formal Complaint does not meet the requirements set forth above, the Senior Director of
32 Human Resources will promptly contact the Complainant and specify the defect. If the sole defect
33 is that the Formal Complaint was filed outside the applicable timeline (as described above), the
34 Senior Director of Human Resources may still address the allegations in any manner that the
35 District deems appropriate under the District's code of conduct policies.

36
37 Oversight of Complaint Procedure: The Senior Director of Human Resources is the "responsible
38 District officer" charged with receiving complaints of discrimination or harassment, and
39 coordinating their investigation.

40
41 The actual investigation of complaints may be assigned by the Senior Director of Human
42 Resources to other staff or to outside persons or organizations under contract with the District.
43 This shall occur whenever the Senior Director of Human Resources is named in the complaint or
44 implicated by the allegations in the complaint.

45
46 Who May File a Formal Complaint: Any student, employee, parent of a minor, or an individual
47 with legal authority on behalf of a student or employee who believes the student or employee
48 has been discriminated against or harassed by a student, employee, or third party in violation of
49 this procedure and the related policy.

1 Where to File a Formal Complaint: A student, employee, parent of a minor, or an individual with
2 legal authority on behalf of a student or employee who believes the student or employee has
3 been discriminated against or harassed in violation of these policy and procedures may make a
4 complaint orally or in writing, using the District’s Unlawful Discrimination Complaint Form.

5
6 Complainants may but are not required to use the form prescribed by the State Chancellor’s
7 Office. These forms are available at the District’s website and at the State Chancellor’s website.
8

9 C. Employment-Related Complaints

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

13
14 Any District employee who receives a harassment or discrimination complaint shall notify the
15 Senior Director of Human Resources immediately.
16

17 Filing a Timely Complaint: Since failure to report harassment and discrimination impedes the
18 District’s ability to stop the behavior, the District strongly encourages anyone who believes they
19 are being harassed or discriminated against to file a complaint. The District also strongly
20 encourages the filing of such complaints as soon as possible or within 30 days of the alleged
21 incident. While all complaints are taken seriously and will be investigated promptly, delay in filing
22 impedes the District’s ability to investigate and remediate.
23

24 All supervisors and managers have a mandatory duty to report incidents of harassment and
25 discrimination; the existence of a hostile, offensive, or intimidating work environment, and acts
26 of retaliation.
27

28 The District will investigate complaints involving acts that occur off campus if there is a
29 demonstrated nexus to an academic or work activity or if the harassing conduct interferes with
30 or limits a student’s or employee’s ability to participate in or benefit from the school’s programs
31 or activities.
32

33 Communicating that the Conduct is Unwelcome: The District further encourages students and
34 staff to let the offending person know immediately and firmly that the conduct or behavior is
35 unwelcome, offensive, in poor taste or inappropriate.
36

37 Intake and Processing of the Complaint: Upon receiving notification of a harassment or
38 discrimination complaint, the Senior Director of Human Resources shall:

- 39 1. Consider whether the District can undertake efforts to informally resolve the charges,
40 including but not limited to mediation, rearrangement of work/academic schedules, obtaining
41 apologies, providing informal counseling, training, etc.
42
- 43 2. Advise all Parties that he/she/they need not participate in an informal resolution of the
44 complaint, as described above, and has the right to end the informal resolution process at any
45 time. Mediation is not appropriate for resolving incidents involving sexual violence.
46
- 47 3. Advise a student Complainant that he/she/they may file a complaint with the Office of Civil
48 Rights of the U.S. Department of Education and employee Complainants may file a complaint
49 with the Department of Fair Employment and Housing. All Complainants should be advised
50 that they have a right to file a complaint with local law enforcement, if the act complained of

1 is also a criminal act. The District must investigate even if the Complainant files a complaint
2 with local law enforcement. In addition, the District should ensure that Complainants are
3 aware of any available resources, such as counseling, health, and mental health services. The
4 Senior Director of Human Resources shall also notify the State Chancellor’s Office of the
5 complaint.
6

- 7
4. Take supportive measures, i.e. non-disciplinary, non-punitive individualized measures offered
8 to the Complainant or the Respondent as the District deems appropriate and reasonably
9 available to restore or preserve equal access to the District’s education program and activities.
10 These measures are designed to protect the safety of all Parties, protect the District’s
11 educational environment or deter further discrimination, retaliation and/or harassment. The
12 District will provide these supportive measures on a confidential basis and will only make
13 disclosures to those with a need to know in order to enable the District to provide the service.
14 Supportive measures may include counseling, extensions of deadlines, other course related
15 adjustments, modifications of work or class schedules, campus escort services, mutual
16 restrictions on contact between the Parties, changes in work or housing locations, leaves of
17 absence, increased security and monitoring of certain areas of the campus, and other similar
18 measures.
19

20 II. Investigation

21

22 A. The Senior Director of Human Resources shall:

- 23
1. Authorize the investigation of the complaint, and supervise or conduct a thorough, prompt,
24 and impartial investigation of the complaint, as set forth below. Where the Parties opt for
25 informal resolution, the designated officer will determine whether further investigation is
26 necessary to ensure resolution of the matter and utilize the investigation process outlined
27 below as appropriate. In the case of a formal complaint, the investigation will include
28 interviews with the Complainant, the accused, and any other persons who may have relevant
29 knowledge concerning the complaint. This may include victims of similar conduct.
30
 2. Review the factual information gathered through the investigation to determine whether the
31 alleged conduct constitutes harassment, or other unlawful discriminatory conduct, giving
32 consideration to all factual information and the totality of the circumstances, including the
33 nature of the verbal, physical, visual, or sexual conduct, and the context in which the alleged
34 incidents occurred.
35
36
37

38 Investigation of the Complaint: The District shall promptly investigate every complaint and claim
39 of harassment or discrimination. No claim of workplace or academic harassment or discrimination
40 shall remain unexamined. Complaints involving harassment, discrimination and/or retaliation
41 occurring in the District’s education program or activity. Education program or activity includes
42 locations, events or circumstances over which the District exercises a substantial amount of
43 control over the Parties and the context in which the conduct occurred, and includes any building
44 owned or controlled by a student organization officially recognized by the District. The District
45 shall promptly investigate complaints of harassment or discrimination that occur off campus if the
46 alleged conduct creates a hostile environment on campus. The District shall notify the
47 Complainant that the District will commence an impartial fact-finding investigation of the
48 allegations contained in the complaint.
49

1 As set forth above, where the Parties opts for an informal resolution, the Senior Director of Human
2 Resources may limit the scope of the investigation, as appropriate. The District will keep the
3 investigation confidential to the extent possible, but cannot guarantee absolute confidentiality
4 because release of some information on a “need-to-know-basis” is essential to a thorough
5 investigation. When determining whether to maintain confidentiality, the District may weigh the
6 request for confidentiality against the following factors: the seriousness of the alleged
7 harassment; the Complainant’s age; whether there have been other harassment complaints
8 about the same individual; and the accused individual’s rights to receive information about the
9 allegations if the information is maintained by the District as an “education record” under the
10 Family Educational Rights and Privacy Act (FERPA), 20 U.S. Code Section 1232g; 34 Code Federal
11 Regulations Part 99.15. The District will inform the Complainant if it cannot maintain
12 confidentiality.

13
14 Investigation Steps (in accordance with BP 3-8020): The District will fairly and objectively
15 investigate harassment and discrimination complaints. Investigations will be conducted in a
16 dignified and respectful manner. Employees designated to serve as investigators under this policy
17 shall have adequate training on what constitutes sexual harassment, including sexual violence,
18 and that they understand how the District’s grievance procedures operate. The investigator may
19 not have any real or perceived conflicts of interest and must be able to investigate the allegations
20 impartially.

21
22 Investigators will use the following steps: interviewing the Complainant(s); interviewing the
23 accused individual(s); identifying and interviewing witnesses and evidence identified by each
24 Party; identifying and interviewing any other witnesses, if needed; reminding all individuals
25 interviewed of the District’s no-retaliation policy; considering whether any involved person should
26 be removed from the campus pending completion of the investigation; reviewing
27 personnel/academic files of all involved Parties; reach a conclusion as to the allegations.

28
29 Standard of Evidence: When the District evaluates the complaint, it shall do so using a clear and
30 convincing evidence standard. Thus, after considering all the evidence it has gathered, the District
31 will decide whether it is highly or substantially more probable to be true than not that
32 discrimination or harassment has occurred.

33
34 Timeline for Completion: The District will undertake its investigation promptly and swiftly as
35 possible. To that end, every effort will be made to complete the investigation, and prepare a
36 written report within ninety (90) days of when the District first received the complaint or
37 information triggering the investigation.

38
39 Cooperation Expected: All employees are expected to cooperate with a District investigation into
40 allegations of harassment or discrimination. Lack of cooperation impedes the ability of the District
41 to investigate thoroughly and respond effectively. However, lack of cooperation by a
42 Complainant or witnesses does not relieve the District of its obligation to investigate. The District
43 will investigate if it is discovered that harassment is, or may be occurring, with or without the
44 cooperation of the alleged victim(s) and regardless of whether a complaint is filed. No employee
45 will be retaliated against as a result of lodging a complaint or participating in any workplace
46 investigation.

47
48 III. Written Report
49

- 1 A. The results of the investigation of a complaint shall be set forth in a written report that will include
2 at least all of the following information:
3 1. A description of the circumstances giving rise to the Formal Complaint;
4 2. A description of the procedural steps taken during the investigation, including all individuals
5 contacted and interviewed;
6 3. A summary of the testimony provided by each witness, including the Complainant and any
7 available witnesses identified by the Complainant in the complaint;
8 4. An analysis of relevant data or other evidence collected during the course of the investigation,
9 including a list of relevant documents;
10 5. A specific finding as to whether it is highly or substantially more probable to be true than not
11 that discrimination, harassment, or retaliation occurred with respect to each allegation in the
12 complaint;
13 6. A table of contents if the report exceeds ten pages and
14 7. Any other information deemed appropriate by the District.
15

16 IV. Confidentiality of the Process

17 Investigations are best conducted within a confidential climate. Therefore, the District does not
18 reveal information about ongoing investigations except as necessary to fulfill its legal obligations.
19 The District will keep the investigation confidential to the extent possible, but it cannot guarantee
20 absolute confidentiality because release of some information, on a “need-to-know-basis” is
21 essential to a thorough investigation and to protect the rights of student and employee
22 Respondents during the investigation process and any ensuing discipline.
23

24 V. Administrative Determination

- 25
26 A. In any case not involving employment discrimination, within 90 days of receiving a formal
27 complaint, the District shall complete its investigation and forward a copy or summary of the
28 report and written notice to the Complainant setting forth all of the following:
29 1. The Chancellor’s or his/her/their designee’s determination as to whether it is highly or
30 substantially more probable to be true than not that discrimination occurred with respect to
31 each allegation in the complaint;
32 2. In the event a discrimination allegation is substantiated, a description of actions taken, if any,
33 to prevent similar acts of unlawful discrimination from occurring in the future;
34 3. The proposed resolution of the complaint;
35 4. The Complainant’s right to appeal to the District’s Board of Trustees and the State
36 Chancellor’s Office; and
37 5. In matters involving student sexual misconduct, the Respondent’s right to appeal to the
38 District’s Board of Trustees any disciplinary sanction imposed upon the Respondent.
39
40 B. In any case involving employment discrimination, within 90 days of receiving a formal complaint,
41 the District shall complete its investigation and forward a copy or summary of the report and
42 written notice to the Complainant setting forth all the following:
43 1. The Chancellor’s or his/her/their designee’s determination as to whether it is highly or
44 substantially more probable to be true than not that discrimination occurred with respect to
45 each allegation in the complaint;
46 2. If a discrimination allegation is substantiated, a description of actions taken, if any, to prevent
47 similar acts of unlawful discrimination from occurring in the future;
48 3. The proposed resolution of the complaint; and
49 4. The Complainant’s right to appeal to the District’s Board of Trustees and to file a complaint
50 with Department of Fair Employment and Housing.

1
2 The District shall also provide the Respondent the following:

- 3 1. The Chancellor's or his/her/their designee's determination as to whether it is highly or
4 substantially more probable to be true than not that discrimination occurred with respect to
5 each allegation in the complaint;
- 6 2. The proposed resolution of the complaint, including any disciplinary action against the
7 Respondent; and
- 8 3. In matters involving student sexual misconduct not subject to Title IX, the Respondent's right
9 to appeal to the District's Board of Trustees any disciplinary sanction imposed upon the
10 Respondent.

11
12 VI. Discipline for Student Sexual Misconduct Not Subject to Title IX

13 In a complaint involving student sexual misconduct not subject to Title IX, if a student Respondent is
14 subject to severe disciplinary sanctions, and the credibility of witnesses was central to the
15 investigative findings, the District will provide an opportunity for the student Respondent to cross-
16 examine witnesses indirectly at a live hearing, either in person or by videoconference and a live
17 hearing conducted by a neutral third party to attend the hearing solely for the purpose of asking any
18 questions to the witnesses. The neutral third party shall not be the student Respondent, the student
19 Respondent's representative, or any individual charged with making a final determination regarding
20 discipline. The student Respondent may submit written questions before and during the cross-
21 examination, including any follow-up questions. The neutral third party asking questions shall not
22 exclude any questions unless there is an objection to the question by any individual charged with
23 making a final determination regarding discipline.

24
25 VII. Discipline and Corrective Action

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

- 31
32 1. providing an escort to ensure that the Complainant can move safely between classes and
33 activities;
 - 34
35 2. ensuring that the Complainant and alleged perpetrator do not attend the same classes or
36 work in the same work area;
 - 37
38 3. preventing offending third parties from entering campus;
 - 39
40 4. providing counseling services or a referral to counseling services;
 - 41
42 5. providing medical services or a referral to medical services;
 - 43
44 6. providing academic support services, such as tutoring;
 - 45
46 7. arranging for a student Complainant to re-take a course or withdraw from a class without
47 penalty, including ensuring that any changes do not adversely affect the Complainant's
48 academic record; and
- 49

1 8. reviewing any disciplinary actions taken against the Complainant to see if there is a causal
2 connection between the harassment and the misconduct that may have resulted in the
3 Complainant being disciplined.
4

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

10
11 Disciplinary actions against faculty, staff, and students will conform to all relevant statutes,
12 regulations, personnel policies, and procedures, including the provisions of any applicable
13 collective bargaining agreement.
14

15 The District shall also take reasonable steps to protect the Complainant from further harassment,
16 or discrimination, and to protect the Complainant and witnesses from retaliation as a result of
17 communicating the complaint or assisting in the investigation.
18

19 The District will ensure that Complainants and witnesses know how to report any subsequent
20 problems, and should follow-up with Complainants to determine whether any retaliation or new
21 incidents of harassment have occurred. The District shall take reasonable steps to ensure the
22 confidentiality of the investigation and to protect the privacy of all Parties to the extent possible
23 without impeding the District's ability to investigate and respond effectively to the complaint.
24

25 If the District cannot take disciplinary action against the accused individual because the
26 Complainant refuses to participate in the investigation, it should pursue other steps to limit the
27 effects of the alleged harassment and prevent its recurrence.
28

29 VIII. Appeals

30 A. If the District imposes discipline against a student or employee because of the findings in its
31 investigation, the student or employee may appeal the decision using the procedure for appealing
32 a disciplinary decision.
33

34 If the Complainant is not satisfied with the results of the administrative determination,
35 he/she/they may, within 30 days, submit a written appeal to the Board of Trustees.
36

37 In a complaint involving student sexual misconduct not subject to the Title IX, a Respondent who
38 is not satisfied with the results of the administrative determination may submit a written appeal
39 to the District's Board of Trustees within 30 days.
40

41 The Board shall review the original complaint, the investigative report, the administrative
42 decision, and the appeal. The Board shall issue a final District decision in the matter within 45
43 days after receiving the appeal. A copy of the decision rendered by the Board shall be forwarded
44 to the Complainant and the Respondent. The Complainant shall also be notified of his/her/their
45 right to appeal this decision.
46

47 If the Board does not act within 45 days the administrative determination shall be deemed
48 approved on the forty-six day and shall become the final decision of the District in the matter.

1 The District shall promptly notify the Complainant and the Respondent of the Board’s action, or
2 if the Board took no action, that the administrative determination is deemed approved.
3

4 In any case not involving workplace discrimination, harassment, or retaliation, the Complainant
5 shall have the right to file a written appeal with the State Chancellor’s Office within thirty days
6 after the Board issued the final District decision or permitted the administrative decision to
7 become final. Such appeals shall be processed pursuant to the provision of Title 5 Section 59350.
8

9 In any case involving employment discrimination, including workplace harassment, the
10 Complainant may, at any time before or after the issuance of the final decision of the District, file
11 a complaint with the Department of Fair Employment and Housing.
12

13 IX. Remand

14 The State Chancellor’s Office may remand any matter to the District for any of the following reasons:
15 to cure defects in the investigation or in procedural compliance; to consider new evidence not
16 available during the investigation despite the Complainant’s due diligence that would substantially
17 impact the outcome of the investigation; or to modify or reverse a decision of the District’s Board of
18 Trustees based upon misapplication of an applicable legal standard or an abuse of discretion.
19

20 If State Chancellor’s Office remands a matter to the District, the District shall take necessary action
21 and issue a decision after remand within 60 days. In any case not involving employment
22 discrimination, the Complainant may appeal the District’s amended determination to the State
23 Chancellor’s Office within 30 days by following the appeal procedures above.
24

25 X. Extension of Time

26 If the District is unable to comply with the 90-day deadline, the District may extend the time to
27 respond by up to 45 additional days. An extension may be taken only once without permission from
28 the State Chancellor’s Office, and must be necessary for one of the following reasons:

- 29 1. A need to interview a party or witness who has been unavailable;
- 30 2. A need to review or analyze additional evidence, new allegations, or new complaints related
31 to the matter; or
- 32 3. To prepare and finalize an administrative determination.
33

34 The District shall send a written notice to the Complainant and to a Respondent who is aware of an
35 investigation indicating the necessity of an extension, the justification for the extension, and the
36 number of days the deadline will be extended. The District shall send this notice no later than 10 days
37 prior to the initial time to respond.
38

39 The District may request additional extensions from the State Chancellor’s Office after the initial 45-
40 day extension. The District shall send a copy of the extension request to the Complainant and to a
41 Respondent who is aware of an investigation. The Complainant and Respondent may each file a
42 written objection with the State Chancellor within 5 days of receipt.
43

44 XI. Disclosures to the State Chancellor’s Office

45 Upon request of the State Chancellor’s Office, the District shall provide copies of all documents related
46 to a discrimination complaint, including the following: the original complaint, any investigative report
47 unless subject to the attorney-client privilege, the written notice to the Complainant setting forth the
48 results of the investigation, the final administrative decision rendered by the Board or statement
49 indicating the date upon which the decision became final, and a copy of the notification to the

1 Complainant of his/her/their appeal rights, the Complainant’s appeal of the District’s administrative
2 determination, any other non-privileged documents or information the State Chancellor requests.
3

4 The District shall provide to the State Chancellor’s Office an annual report with the following
5 information: the number of employment and non-employment discrimination complaints and
6 informal charges received in the previous academic year; the number of complaints and informal
7 charges resolved in the previous academic year; the number of complaints of unlawful discrimination
8 received in the previous academic year, and the number of those complaints that were sustained in
9 whole or in part; and any other information requested by the State Chancellor’s Office.
10

11 XII. File Retention

- 12 A. The District will retain on file for a period of at least five years after closing the case copies of:
13 1. the original complaint;
14 2. the investigatory report;
15 3. the summary of the report if one is prepared;
16 4. the notice provided to the Parties, of the District’s administrative determination and the right
17 to appeal;
18 5. any appeal; and
19 6. the District’s final decision.
20

21 For any appeal to the State Chancellor’s Office shall provide all relevant, non-privileges documents
22 upon request of the Chancellor.
23

24 XIII. Dissemination of Policy and Procedures

- 25 A. District Policy and Procedures related to harassment will include information that specifically
26 addresses sexual violence. District policy and procedures, including BP 3-8020, and academic
27 freedom policies BP 4030 and 5-8081, will be provided to all students, faculty members, members
28 of the administrative staff and members of the support staff, and will be posted on campus and
29 on the District’s website.
30

31 When hired, employees are required to sign that they have received the policy and procedures,
32 and the signed acknowledgment of receipt is placed in each employee’s personnel file. In
33 addition, these policies and procedures are incorporated into the District’s course catalogs and
34 orientation materials for new students.
35

36 XIV. Training

- 37 A. By January 1, 2021, the District shall provide at least two hours of classroom or other effective
38 interactive training and education regarding sexual harassment and abusive conduct training to
39 all supervisory employees and at least one hour of classroom or other effective interactive training
40 and education regarding sexual harassment and abusive conduct training to all nonsupervisory
41 employees. All new employees must be provided with the training and education within six
42 months of their assumption of his/her/their position. After January 1, 2021, the District shall
43 provide sexual harassment training and education to each employee once every two years. An
44 employee who received this training and education in 2019 is not required to have refresher
45 training until after two years thereafter.
46

47 The training and education required by this procedure shall include information and practical
48 guidance regarding the federal and state statutory provisions concerning the prohibition against
49 and the prevention and correction of sexual harassment and the remedies available to victims of
50 sexual harassment in employment, a review of “abusive conduct,” and harassment based on

1 gender identity, gender expression, and sexual orientation. The training and education shall also
2 include practical examples aimed at instructing supervisors in the prevention of harassment,
3 discrimination, and retaliation, and shall be presented by trainers or educators with knowledge
4 and expertise in the prevention of harassment, discrimination, and retaliation. Supervisor's
5 harassment training must also address potential exposure and liability for employers and
6 individuals, supervisor's obligation to report sexual harassment, discrimination, and retaliation
7 when they become aware of it, appropriate remedial measures to correct harassing behavior.
8

9 The District will maintain appropriate records of the training provided, including the names of the
10 supervisory employees trained, the date of training, sign in sheets, copies of all certificates of
11 attendance or completion issued, the type of training provided, a copy of all written or recorded
12 training materials, and the name of the training provider. If the training is provided by webinar,
13 the District will maintain a copy of the webinar, and document all written response or guidance
14 the trainer provided during the webinar. The District will retain these records for at least two
15 years.
16

17 The District will also provide training to students who lead student organizations. The District
18 should provide copies of the sexual harassment policies and training to all District law
19 enforcement unit employees regarding the grievance procedures and any other procedures used
20 for investigating reports of sexual violence.
21

22 In years in which a substantive policy or procedural change has occurred, all District employees
23 will attend a training update or receive a copy of the revised policies and procedures.
24

25 Participants in training programs will be required to sign a statement that they have either
26 understood the policies and procedures, their responsibilities, and their own and the District's
27 potential liability, or that they did not understand the policy and desire further training.
28

29 **B. Education and Prevention for Students**

30 To take proactive measures to prevent sexual harassment and violence toward students, the
31 District will provide preventive education programs and make victim resources, including
32 comprehensive victim services, available. The District will include such programs in their
33 orientation programs for new students, and in training for student athletes and coaches. These
34 programs will include discussion of what constitutes sexual harassment and sexual violence, the
35 District's policies and disciplinary procedures, and the consequences of violating these policies. A
36 training program or informational services will be made available to all students at least once
37 annually.
38

39 The education programs will also include information aimed at encouraging students to report
40 incidents of sexual violence to the appropriate District and law enforcement authorities. Since
41 victims or third parties may be deterred from reporting incidents if alcohol, drugs, or other
42 violations of District or campus rules were involved, the District will inform students that the
43 primary concern is for student safety, and that use of alcohol or drugs never makes the victim at
44 fault for sexual violence. If other rules are violated, the District will address such violations
45 separately from an allegation of sexual violence.
46

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

48 YCCD Policy 3430 – Prohibition of Harassment

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

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

- 1 YCCD Policy 3540 – Sexual and Other Assaults on Campus
- 2 YCCD Policy 3-8020 – Due Process
- 3 YCCD Policy 5500 – Standards of Student Conduct
- 4 YCCD Policy 5530 – Complaint Policy
- 5 YCCD Policy 7700 – Whistleblower Protection

6

7 **References:**

8 Education Code Sections [212.5](#), [231.5](#), [66281.5](#) and [67386](#); Government Code Section [12950.1](#); Title 5
9 Sections [59320](#), [59324](#), [59326](#), [59328](#), and [59300 et seq.](#); Title 2 Sections [11023](#) and [11024](#)

10

11 **Procedure Last Revised:** ~~August 26, 2016~~, February 10, 2021

12 **Last Reviewed:** ~~August 26, 2016~~, February 10, 2021