

LOS ANGELES COMMUNITY COLLEGE DISTRICT  
**ADMINISTRATIVE REGULATION C-14**

**TOPIC:** Procedures for Prohibited Discrimination, Unlawful Harassment, and Sexual Misconduct Complaints

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**I. This Administrative Regulation compliments Board Rule XV and incorporates it by reference.**

**II. Definitions**

**A. Advocate**

The term "Advocate" refers to someone trained by a Title IX Coordinator to assist a Reporting Party and/or Alleged Victim or a Respondent generally in a Sexual Misconduct case, with the exception of Advocates for Students, below. An Advocate's assistance can include providing moral support as well as information regarding procedural issues, throughout the pendency of an investigation, through the last internal Appeal. Each location (college and ESC) must have a minimum of two Advocates at all times, and preferably will have at least four. The Advocate is independent from college and District influences, and maintains the Confidentiality of anyone he or she aids. In Sexual Misconduct matters, the services of the Advocate are available to both parties through the time of a final internal Appeal.

This position encompasses the former "Advocate for Students" position. All Advocates shall be available to assist student parties to a non-Sexual Misconduct Complaint from the initiation of the matter through the final written Decision

**B. Alleged Victim**

The term "Alleged Victim" refers to a person who may have been the object of a violation of this policy.

**C. Appeal**

The term "Appeal" refers to a request by a Reporting Individual and/or an Alleged Victim, made in writing to the Los Angeles Community College District Board of Trustees pursuant to Title 5, section 59338, and/or to the State Chancellor's Office pursuant to Title 5, section 59339, to review the administrative determination of the District regarding a Complaint of discrimination.

**D. Behavioral Intervention Team or BIT**

The term "Behavioral Intervention Team" or "BIT" refers to a group or team at each College and the ESC charged, among other duties, with the responsibility to monitor, sponsor, prevent, intervene, and offer educational programs on campus or at the ESC regarding Sexual Misconduct, and with responding to allegations of Sexual Misconduct, as defined above, within the constraints of the Title IX procedures outlined herein.

The BIT may choose to meet its Sexual Misconduct responsibilities through the services of a Sexual Misconduct Awareness and Response Team ("SMART") created by the BIT, or in some other way. The responsibilities are the same, to

sponsor prevention, intervention, and education programs at their location regarding sexual misconduct.

**E. College Title IX Coordinator**

The term "College Title IX Coordinator" refers to the individual designated to oversee Sexual Misconduct matters at a particular college or site in the District.

**F. Complaint**

The term "Complaint" means a written or oral statement that alleges Prohibited Discrimination, Unlawful Harassment, or Sexual Misconduct as defined herein.

A Complaint may be filed by someone who alleges that he or she has personally suffered Prohibited Discrimination, Unlawful Harassment, and Sexual Misconduct or by someone who has learned of potential Prohibited Discrimination, Sexual Misconduct, and Unlawful Harassment in his or her official capacity as a faculty member or administrator, and by an individual or entity filing a Complaint on behalf of another individual or class of individuals.

**G. Confidential, Confidentiality**

The terms "Confidential" and "Confidentiality" mean not sharing information with anyone other than the person who told it to you.

**H. Consent**

The term "Consent," when used regarding Sexual Misconduct matters refers to a mutual, honest, direct agreement. Consent is never implied and cannot be assumed, even in the context of a relationship.

- 1.** Consent must be:
  - a.** Informed (knowing)
  - b.** Voluntary (freely given)
  - c.** Active, (not passive)
  - d.** By clear words or actions, with regard to agreed-upon (sexual) activity, and
  - e.** Must indicate permission to engage in mutually agreed upon (sexual) activity.
  - f.** It must also be continuous throughout the sexual interaction.

2. Consent cannot be the result of:
  - a. Force,
  - b. Physical Violence,
  - c. Threats
  - d. Intimidation,
  - e. Coercion, including consideration of frequency, intensity, isolation and duration, or
  - f. Incapacity as a result of drugs, alcohol, sleep, mental or cognitive impairment, injury, or other condition, which was or should have been known to the accused. Intoxication of the assailant shall not diminish the assailant's responsibility for sexual assault or sexual misconduct.
  
3. The absence of "No" does not mean "Yes".

**I. Dating Violence**

The term "Dating Violence" is included in Intimate Partner Violence; see below.

**J. Days**

The word "Days" means calendar Days unless otherwise specified. "Business Day" shall mean Monday through Friday when the District is open, whether or not classes are in session. When the last day for an action or due date falls on a Saturday or Sunday under this policy, the due date will be the following Business Day.

**K. Decision**

The term "Decision" refers to an administrative determination as described in Section VII, below, and as provided in Title 5, section 59336.

**L. District**

The term "District" refers to the Los Angeles Community College District or any District program or activity that is funded directly by the state or receives financial assistance from the State or the Federal government, including student financial aid. This includes the District Personnel Commission and any other organization associated with the District or its colleges that receives state or Federal funding or financial

assistance through the District. Referred to herein as the Educational Services Center (ESC).

**M. Domestic Violence**

The term "Domestic Violence" is included in Intimate Partner Violence, below.

**N. Educational Services Center (ESC)**

The term "Educational Services Center (ESC)" refers to the administrative unit that serves and supports District colleges, currently located at 770 Wilshire Blvd., Los Angeles, CA, and formerly known as the "District Office."

**O. First Responder**

The term "First Responder" refers to an individual who is trained to provide the Alleged Victim with immediate assistance and information about resources. The responsibilities of a First Responder are greater than those of a Responsible Employee. The First Responder should also participate on the Behavioral Intervention Team at his or her location.

**P. Gender**

The term "Gender" includes a person's Gender identity and Gender-related appearance and behavior whether or not stereotypically associated with the person's assigned sex at birth. See also the definition of "Sexual Orientation," below.

**Q. Gender-Based Harassment**

The term "Gender-Based Harassment" refers to unwelcome conduct of a non-sexual nature based on Gender or Gender stereotyping, including acts of verbal, nonverbal, and physical aggression, intimidation, or hostility.

**R. Intimate Partner**

The term "Intimate Partner" refers to a person with whom one has or had a close personal relationship that may be characterized by some or all of the following: the partners' emotional connectedness, regular contact, ongoing physical contact and sexual behavior, identity as a couple, and familiarity with and knowledge about each other's lives.

Intimate Partner relationships include current or former:

- spouses (married spouses, common-law spouses, civil union spouses, domestic partners)
- boyfriends/girlfriends
- dating partners
- ongoing sexual partners

Intimate Partners may or may not cohabit. Intimate Partners can be opposite or same sex. If the Alleged Victim and the Respondent have a child in common and a previous relationship but no current relationship, then by definition they fit into the category of former Intimate Partners.

**S. Intimate Partner Violence**

The term “Intimate Partner Violence” refers to behavior involving physical force or intimidation by the exhibition of such force, intended to hurt, damage, or kill an Intimate Partner, as defined above; this frequently arises in the form of Sexual Misconduct.

**T. Mandated Reporter**

The term “Mandated Reporter” refers to someone who, as a result of his or her professional position, is required to report allegations or suspicions of child abuse and neglect to local law enforcement pursuant to the California Abuse and Neglect Reporting Act (“CANRA”), California Penal Code sections 11164 – 11174.3, most notably section 11165.7.

**U. Mental Disability**

The term “Mental Disability” includes, but is not limited to, all of the following:

1. Having any mental or psychological disorder or condition, such as developmental disability, organic brain syndrome, emotional or mental illness, or specific learning disabilities, which limits a major life activity. For purposes of this section:
  - a. “Limits” shall be determined without regard to mitigating measures, such as medications, assistive devices, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.

- b.** A mental or psychological disorder or condition limits a major life activity if it makes the achievement of the major life activity difficult.
  - c.** "Major life activities" shall be broadly construed and shall include physical, mental, and social activities and working.
- 2.** Any other mental or psychological disorder or condition not described in paragraph (U) (1) that requires specialized supportive services.
- 3.** Having a record or history of a mental or psychological disorder or condition described in paragraph (U) (1) or (2), which is known to the District.
- 4.** Being regarded or perceived by the District as having, or having had, any mental condition that makes achievement of a major life activity difficult.
- 5.** Being regarded or perceived by the District as having, or having had, a mental or psychological disorder or condition that has no present disabling effect, but that may become a mental disability as described in paragraph (U) (1) or (2).
- 6.** Mental disability" does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.

**V. Physical Disability**

The term "Physical Disability" includes, but is not limited to, all of the following:

- 1.** Having any physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss that does both of the following:
  - a.** Affects one or more of the following body systems: neurological, immunological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin and endocrine.



- b.** Limits a major life activity. For purposes of this section:
  - (i)** "Limits" shall be determined without regard to mitigating measures such as medications, assistive devices, prosthetics, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.
  - (ii)** A physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss limits a major life activity if it makes the achievement of the major life activity difficult.
  - (iii)** "Major life activities" shall be broadly construed and includes physical, mental, and social activities and working.
- 2.** Any other health impairment not described in paragraph (V) (1) that requires specialized supportive services.
- 3.** Having a record or history of a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment described in paragraph (V)(1) or (2), which is known to the District.
- 4.** Being regarded or perceived by the District as having, or having had, any physical condition that makes achievement of a major life activity difficult.
- 5.** Being regarded or perceived by the District as having, or having had, a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment that has no present disabling effect but may become a Physical Disability as described in paragraph (V)(1) or (2).
- 6.** "Physical Disability" does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.

## **W. Privacy**

The term "Privacy" means sharing information only with those individuals who need to know, such as the Title IX Coordinator, and only sharing information required for that individual to do his or her job.

## **X. Prohibited Discrimination**

The term "Prohibited Discrimination" means unlawful discrimination on the basis of a protected class, done by someone from or in the workplace or the educational setting. "Protected class" includes race, color, national origin, religion, sex (including pregnancy, childbirth, and related medical conditions), disability, age (40 or older), and genetic information, under Federal law, as well as physical or mental disability, marital status, sexual orientation and identity, AIDS/HIV status, medical condition, military or veteran status, and status as a victim of Domestic Violence, assault, or stalking under California law.

This list shall be presumed to include any new protected classes added by federal or state law, even if not specifically listed herein.

## **Y. Reporting Individual**

The term "Reporting Individual" refers to the person who informs the college or ESC about a perceived violation of this policy; formerly known as a "complainant."

## **Z. Respondent**

The term "Respondent" refers to the individual who responds to a Complaint which was filed, alleging that he/she violated this policy; also known as an "alleged offender."

## **AA. Responsible Employee**

The term "Responsible Employee" refers to a person who works for the Los Angeles Community College District (LACCD) who, pursuant to Title IX, has the responsibility to report to the College Title IX Coordinator instances of Sexual Misconduct or Sexual Harassment at or connected to the College or the District, which he or she has been told about or has seen.

Mental Health professionals and clergy are not "responsible employees" when acting in their professional capacity and

therefore are exempt from the Title IX reporting responsibility, as are faculty with regard to material directly related to their curriculum.

A First Responder may or may not be a Responsible Employee depending on his or her other role(s) at the college or ESC, but his or her activities are broader than those of a Responsible Employee. See "First Responder," above. Both the Responsible Employee and the First Responder may be members of the Behavioral Intervention Team (BIT), as part of the Sexual Assault Response Team (SMART), as described in these regulations.

## **BB. Retaliation**

The term "Retaliation" refers to a prohibited form of unlawful harassment. Retaliation refers to adverse personal behavior or adverse employment or academic decisions based primarily upon an individual's participation as a witness, Respondent, investigator, decision-maker, representative or advisor, or other individual as prohibited by state or federal law.

- 1.** The initiation of a Complaint alleging prohibited discrimination, unlawful harassment, sexual harassment, or Sexual Misconduct shall not be cause for any negative reflection on the individual initiating the Complaint or an individual identified as an Alleged Victim, if different.
- 2.** In the case of a student, the filing of a Complaint shall not affect his/her grade, class selections, or other matters pertaining to enrollment status as a student of the District.
- 3.** Similarly, adverse actions (as described above) shall not be taken against a Respondent, from the time allegations are made about him/her through final resolution of the matter. Consequences imposed because the final decision concludes that the Respondent's actions rise to the level of discrimination are not retaliation, and are hereby excluded from this definition.
- 4.** Any adverse action against an individual for filing a discrimination charge, for testifying, or for

participating in any way in an investigation, proceeding, or lawsuit under these laws, or for opposing employment practices that they reasonably believe to be discriminatory is retaliation and thus unlawful harassment which violates these regulations.

### **CC. Sexual Harassment**

The term "Sexual Harassment" means unlawful discrimination in the form of unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a physical nature, made by someone from or in the workplace or the educational setting, and is a form of Sexual Misconduct, defined below. Sexual Harassment includes, but is not limited to:

- 1.** Making unsolicited written, verbal, physical, and/or visual contacts with sexual overtones. (Examples of possible sexual harassment that appear in written form include, but are not limited to: suggestive or obscene letters, notes or invitations. Examples of possible visual sexual harassment include but are not limited to: leering, gestures, display of sexually aggressive objects, pictures, cartoons, or posters.
- 2.** Continuing to express sexual interest after being informed that the interest is unwelcome.
- 3.** Making reprisals, threats of reprisal, or implied threats of reprisal following a rebuff of harassing behavior. For example, implying or actually withholding grades earned or deserved, preparing a poor performance evaluation, or suggesting a scholarship recommendation or college application will be denied.
- 4.** Engaging in explicit or implicit coercive sexual behavior within the work environment which is used to control, influence, or affect the employee's career, salary, and/or work environment.
- 5.** Engaging in explicit or implicit coercive sexual behavior within the work environment which is used to control, influence, or affect the educational

opportunities, grades, and/or learning environment of a student.

- 6.** Offering favors or educational or employment benefits, such as grades or promotions, favorable performance evaluations, favorable assignments, favorable duties or shifts, recommendations, reclassifications, etc., in exchange for sexual favors.
- 7.** Awarding educational or employment benefits such as grades or duties or shifts, recommendations, reclassifications, etc., to any student or employee with whom the decision maker has a sexual relationship and denying such benefits to other students or employees.

#### **DD. Sexual Misconduct**

The term "Sexual Misconduct" refers to non-consensual sexual activity, where clear, knowing, and voluntary Consent, as defined herein, both prior to and during the sexual activity is absent. Sexual misconduct includes "sexual harassment" as that term is defined herein.

- 1.** Sexual Misconduct offenses include but are not limited to Non-Consensual Sexual Intercourse, defined as
  - a.** Any sexual penetration or intercourse (anal, oral, or vaginal)
  - b.** However slight
  - c.** With any object
  - d.** By a person upon another person
  - e.** That is without Consent and/or by force
  - f.** Sexual penetration includes vaginal, oral or anal penetration by a penis, tongue, finger or object, or oral copulation by mouth or genital contact, or genital to mouth contact.
  - g.** Non-Consensual Sexual Intercourse includes but is not limited to rape, forced sodomy, forced copulation, or rape by foreign object.

2. Sexual Misconduct offenses also include Non-Consensual Sexual Contact, defined as
  - a. Any intentional sexual touching
  - b. However slight
  - c. With any object
  - d. By another person upon another person
  - e. That is without Consent and/or by force.
  - f. Sexual touching includes any bodily contact with the breasts, groin, genitals, mouth or other bodily orifice of another individual, or any other bodily contract in a sexual manner.
  - g. Non-Consensual Sexual Intercourse includes but is not limited to sexual battery or threat of sexual assault.
3. In addition to those acts specified above, Sexual Misconduct also specifically includes Sexual Harassment, Stalking, Dating Violence, Domestic Violence, and Intimate Partner Violence.

**EE. Sexual Misconduct Awareness and Response Team or SMART**

The term "Sexual Misconduct Awareness and Response Team" or "SMART" refers to a group or team at each College and at the ESC which is organized by and operating within the auspices of the site's Behavioral Intervention Team (BIT) for the purpose of sponsoring prevention, intervention, and education programs on campus or at the ESC regarding sexual misconduct, and for the purpose of responding to allegations of Sexual Misconduct, as defined above, within the constraints of the Title IX procedures outlined herein.

**FF. Sexual Orientation**

The term "Sexual Orientation" means heterosexuality, homosexuality, bisexuality, asexuality, or any combination or variation thereof. Sexual Orientation includes but is not limited to: Lesbian, Gay, Bisexual, Transgender, Questioning, Intersexual, and Asexual.

## **GG. Sexual Violence**

The term "Sexual Violence" refers to a forceful physical sexual act that is committed or attempted by another person without freely given Consent.

## **HH. Stalking**

The term "Stalking" refers to a course of conduct (two or more acts), directed at a specific person, on the basis of actual or perceived membership in a protected class, that is unwelcome, and would cause a reasonable person to fear for his or her safety or the safety of others, or to suffer substantial emotional distress. Stalking is defined as the repeated following, watching, and harassing of another person. Stalking may include legal, appropriate behavior such as sending someone flowers or waiting outside someone's workplace for her/him to appear. However when these acts are coupled with an intent to instill fear or injury, they may be part of a pattern of stalking behavior.

## **II. Supervisor**

The term "Supervisor" refers to any employee of the District with supervisory authority over other persons, including but not limited to department chairs, academic and classified managers, supervisors, and administrators, and means anyone whose job description includes supervisory responsibility. This definition of Supervisor shall apply only in the context of this policy.

## **JJ. Title IX Coordinator**

The term "Title IX Coordinator" refers to the individual designated to oversee Title IX and Sexual Misconduct matters throughout the entire Los Angeles Community College District. The Title IX Coordinator is also responsible for oversight of Title IX and Sexual Misconduct matters at the ESC, which responsibility may be delegated.

## **KK. Unlawful Harassment**

The term "Unlawful Harassment" refers to unlawful discrimination on the basis of a protected class, done by someone from or in the workplace or the educational setting. "Protected class" includes race, color, national origin, religion, sex (including pregnancy, childbirth, and

related medical conditions), disability, age (40 or older), and genetic information, under Federal law, as well as physical or mental disability, marital status, sexual orientation and identity, AIDS/HIV status, medical condition, military or veteran status, and status as a victim of Domestic Violence, assault, or stalking under California law. This list shall be presumed to include any new protected classes added by federal or state law, even if not specifically listed herein.

- 1.** Unlawful Harassment is unwelcome conduct that is based on race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information or other protected class. Harassment becomes unlawful where (a) enduring the offensive conduct becomes a condition of continued employment or student status, or (b) the conduct is severe or pervasive enough to create a school or work environment that a reasonable person would consider intimidating, hostile, or abusive. To be unlawful, the conduct must create a workplace or academic environment that would be intimidating, hostile, or offensive to reasonable people.
- 2.** Offensive conduct may include, but is not limited to, offensive jokes, slurs, epithets or name calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures, and interference with work or academic performance.
- 3.** Retaliation, as defined herein, is a form of Unlawful Harassment.
- 4.** Unlawful Harassment can occur in a variety of circumstances, including, but not limited to, the following:
  - a.** The harasser can be the victim's supervisor, a supervisor in another area, an agent of the employer, a co-worker, a faculty member or administrator with the ability to impact the



grades or academic record of a student victim, or a non-employee;

**b.** The victim does not have to be the person harassed, but can be anyone affected by the offensive conduct; or

**c.** Unlawful Harassment may occur without economic or educational injury to, or the discharge or dismissal of, the victim.

**5.** "Sexual Harassment" is unlawful discrimination in the form 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 workplace or the educational setting, as defined above.

### **III. Roles and Responsibilities**

The individuals mentioned in this section have responsibilities related to Prohibited Discrimination, Unlawful Harassment, Sexual Misconduct, and/or Title IX.

#### **A. Director, Office for Diversity, Equity and Inclusion**

- 1.** Intake responsibilities: The Director, Office for Diversity, Equity, and Inclusion is responsible for receiving Complaints under Board Rule XV and coordinating investigations from within the District, from other governmental agencies, and from outside sources. The Director, Office for Diversity, Equity, and Inclusion may delegate receipt of Complaints in the Director's absence to a Compliance Officer.
- 2.** Title IX responsibilities: The Director of the Office for Diversity, Equity, and Inclusion is responsible for referring all cases of sexual harassment and Sexual Misconduct to the Title IX Coordinator after the Director assigns the case to a Compliance Officer for investigation.
- 3.** Implementation responsibilities: In addition to other responsibilities as may be designated for the position, the Director, Office for Diversity, Equity, and Inclusion shall be

responsible for the implementation of Board Rule 15000, and for District compliance with federal and state laws and regulations relating to Prohibited Discrimination.

4. Training Responsibilities: The Director, Office for Diversity, Equity, and Inclusion shall also be responsible for organizing training opportunities for the Title IX Coordinator, the Compliance Officers, and other employees regarding their duties under this policy.
5. Responsible for Required Reports:
  - a. The Director, Office for Diversity, Equity, and Inclusion, shall forward a copy of any filing with the Department of Fair Employment and Housing to the State Chancellor's Office.
  - b. The Director, Office for Diversity, Equity, and Inclusion shall be responsible for making reports to the State Chancellor's Office as required by Title 5, Sections 59336, 59338 and 59340.

**B. Title IX Coordinator**

1. Responsible for coordinating investigations of Sexual Misconduct and sexual harassment cases with the Director, Office for Diversity, Equity, and Inclusion. The Title IX Coordinator is responsible for overseeing the processing of all cases of sexual harassment and Sexual Misconduct from the time the Director of Diversity, Equity, and Inclusion assigns them to a Compliance Officer through their conclusion, including but not limited to Complaint evaluation, intake processing, record-keeping oversight, screening for patterns, and otherwise implementing Title IX of the Education Amendments of 1972.

The Title IX Coordinator shall report to the Director, Office for Diversity, Equity, and Inclusion with regard to investigation of allegations of sexual harassment and Sexual Misconduct.

2. Training: The Title IX Coordinator is responsible for organizing training opportunities for the College Title IX

Coordinators. The Title IX Coordinator shall also be responsible for training the Title IX Advocates; which responsibility may be delegated to the College Title IX Coordinators.

**3. Responsible for Implementation:**

- a.** In addition to other responsibilities as may be designated, the Title IX Coordinator shall be responsible for the implementation of the District's Sexual Misconduct policy, including reporting requirements relating to Title IX Sexual Misconduct matters. The Title IX Coordinator shall also be responsible for organizing training opportunities for administrators and other employees regarding Title IX Sexual Misconduct issues.
- b.** Responsible for developing Title IX policies and procedures at the District and for the colleges, and preparing them for publication shall be with the Title IX Coordinator, with the advice and concurrence of the Director of the Office for Diversity, Equity, and Inclusion.
- c.** Responsible for having Memoranda of Understanding between each College and the District, on the one hand, and a nearby rape crisis center.
- d.** Responsible for reviewing contractual arrangements between the Los Angeles Community College District and the Los Angeles County Sheriff's Department (which handles College and ESC security) to incorporate criteria otherwise included in Memoranda of Understanding for coordination of Title IX information and responsibilities.

**4. Responsibilities related to the Clery Act:** The Title IX Coordinator shall be responsible for ensuring that every matter reported to him/her is also reported to the College or ESC Sheriff's Office for purposes of ensuring current, accurate Clery Act reports at each location. Such responsibility may be delegated to the College Title IX Coordinators.

### **C. College Title IX Coordinators**

- 1.** Assignment and Reporting Lines: College Title IX Coordinators are appointed to their position by the college president and ultimately report to the college president. However, they also have dotted line responsibility to the Title IX Coordinator, who oversees all Title IX activities for the District, including those at each college.
- 2.** Training: The Title IX Coordinator shall advise the College Title IX Coordinators of training opportunities and shall provide them with current information regarding Title IX updates, as well as providing on-going advice and counsel to each College Title IX Coordinator.
- 3.** Role: The College Title IX Coordinator is the face of Title IX for that college. He or she is responsible for ensuring that Title IX information is disseminated across the campus, that Title IX training provided by the District is made available to campus personnel, and that Title IX and sexual misconduct programming occurs at the college.

With regard to Complaints, the College Title IX Coordinator may be responsible for the initial intake of the complaint and for the first meeting with the victim and/or the complainant. He or she is responsible for assessing the need for and implementing any academic or other accommodations necessitated by the reported sexual misconduct. The College Title IX Coordinator has no investigative responsibilities; he or she must ensure that the complaint is reported to the Title IX Coordinator in the District Office and/or the Director of the Office for Diversity, Equity, and Inclusion, as well as sharing relevant information with the college Sheriffs' Department.

He or she may identify the College Title IX Advocates and ensure that the college maintains a full roster of Advocates.

### **D. Compliance Officers**

- 1.** Assignment and Reporting Lines: Compliance Officers shall report to the Director, Office for Diversity, Equity, and Inclusion regarding cases assigned to a Compliance

Officer by the Director. Compliance Officers shall report the results of their Title IX investigations to the Title IX Coordinator for the purpose of maintaining accurate records regarding Title IX Complaints.

**2. Training:**

- a.** The Director, Office for Diversity, Equity, and Inclusion shall be responsible for providing appropriate training opportunities and for providing ongoing advice and counsel for each Compliance Officer.
- b.** The Title IX Coordinator shall be responsible for ensuring that the College Title IX Coordinators and all Compliance Officers receive appropriate training regarding the law and regulations related to Title IX as it applies to their work.

**3.** Role: The role of the Compliance Officer shall be as an impartial resource, fact-finder, and investigator and not as advocate for any party. A Compliance Officer also investigates Title IX Complaints and is responsible for applying the same impartial fact-finding and investigation skills to investigations and reports of alleged Title IX violations as to other investigations.

**E. Advocate**

- 1.** The term "Advocate" refers to an employee who assists a Reporting Party, Alleged Victim, or Respondent, with understanding the process of the case. This can include providing moral support as well as information regarding procedural issues, throughout the pendency of an investigation and through the last internal Appeal.
- 2.** Each college and the ESC shall have a minimum of two employees who shall serve as Advocates and preferably will have at least four. The Advocate's work is intermittent, but critical when needed.

3. Sexual Misconduct Cases. In Sexual Misconduct matters, the services of the Advocate are available to both parties through the time of a final Appeal.
4. Student party. A student party to any complaint, whether complainant, alleged offender, or victim, is entitled to the services of an Advocate from the inception of the case through the final written decision. This position encompasses the former "Advocate for Students" position.

**F. Supervisors**

All supervisors shall be responsible for maintaining a work environment consistent with this policy. Any supervisor who becomes aware of a situation that could reasonably be perceived to be a violation of this policy has a duty to report that information. Matters involving sexual misconduct should be reported to the College Title IX Coordinator or, in the ESC, to the Title IX Coordinator. Matters involving other forms of prohibited discrimination or non-sexual harassment should be reported to the Director, Office of Diversity, Equity, and Inclusion. Failure to comply with this paragraph may be a basis for discipline.

**G. Employees**

1. Every employee of the District, including faculty and classified staff, shall be responsible for maintaining an educational environment consistent with this policy. Any employee who becomes aware of a situation that could reasonably be perceived to be a violation of this policy towards a student shall have a duty to report that information. Matters involving sexual misconduct should be reported to the College Title IX Coordinator or, in the ESC, to the Title IX Coordinator. Matters involving other forms of prohibited discrimination or non-sexual harassment should be reported to the Director, Office of Diversity, Equity, and Inclusion. Failure to comply with this paragraph may be a basis for discipline.
2. When an LACCD employee receives an allegation of Sexual Misconduct, or observes such behavior, that individual

must act as a "Responsible Employee" and do the following:

- a.** Ask the Reporting Individual and/or Alleged Victim whether she/he needs medical attention and, if necessary, refer her/him for follow-up emergency care, including emergency psychological intervention if warranted;
- b.** Inform the Reporting Individual and/or Alleged Victim and the Alleged Offender (if identified) that a list of college and community resources from which she/he can receive further assistance is available at the College or ESC Title IX Coordinator's office;
- c.** Inform the Reporting Individual and/or Alleged Victim that as an LACCD employee, he/she is obligated to report what the Reporting Individual and/or Alleged Victim tells him/her about the incident. Further inform the Reporting Individual and/or Alleged Victim that if she/he wants to speak to someone in confidence, then she/he should go to the Health Center on campus and speak to a Mental Health Professional, acting in his/her professional capacity, or, from the Educational Services Center, contact the EAP or go to a local women's center or rape crisis center as guided by the Title IX Coordinator, as these are confidential resources; and
- d.** Immediately report the incident to the Title IX Coordinator or the College Title IX Coordinator.

#### **IV. False Allegations**

Anyone who files a Complaint pursuant to these procedures in which he or she knowingly makes false allegations of fact shall also have violated this policy and be subject to applicable or appropriate disciplinary process. Complaints that a Reporting Individual and/or Alleged Victim has made false allegations about a violation of this process shall be made through this process only.

## **V. Confidentiality and Recordkeeping**

- A.** All persons involved in investigations of complaints shall have a duty to maintain the confidentiality of the matters discussed, except as may be required or permitted by law, which includes the rules and regulations of the District. The names of individuals alleging that they were sexually harassed or sexually assaulted, and the names of Alleged Offenders, shall not be revealed by persons responsible for implementing these procedures and/or enforcing provisions of related policy, except as required by law or by District procedures for investigating such matters.
- B.** All records regarding an investigation or complaint shall be confidential and shall not be revealed except as required or permitted by law, which includes the rules and regulations of the District, or at the discretion of the Chancellor or his or her designee.
- C.** Upon completion of an investigation, the original records of each Complaint and investigation shall be kept by the Director, Office for Diversity, Equity, and Inclusion.
- D.** Upon final resolution of any matter under these rules, the original files and records regarding the matter shall be maintained permanently in the Office of Diversity, Equity, and Inclusion and cross-referenced by the names of the persons involved. Files regarding formal complaints and appeals to the Board of Trustees will be maintained in the same manner.

## **VI. Informal Complaint Procedure**

- A.** Upon receiving an allegation of Prohibited Discrimination (not including Sexual Misconduct or Title IX issues), the Compliance Officer or the Director, Office for Diversity, Equity, and Inclusion, as applicable, shall within five (5) Days, or for good cause, as soon thereafter as practicable:
  - 1.** Notify the Reporting Individual and/or Alleged Victim of the procedure for filing a formal Complaint;
  - 2.** Undertake efforts to informally resolve the charges;



- 3.** Advise the Reporting Individual and/or Alleged Victim that participation in informal resolution is not required;
  - 4.** Assure the Reporting Individual and/or Alleged Victim that he/she will not be required to confront or work out problems with the person accused of Prohibited Discrimination;
  - 5.** Advise the Reporting Individual and/or Alleged Victim who files an employment-related Complaint, that he or she may file a Complaint with the U.S. Equal Employment Opportunity Commission (EEOC) and/or the California Department of Fair Employment and Housing (DFEH), where such Complaint is within that agency's jurisdiction;
  - 6.** Advise the Reporting Individual and/or Alleged Victim who files a non-employment-related Complaint that at any time she/he may file a non-employment-based Complaint with the Office for Civil Rights, U.S. Department of Education (OCR), where such a Complaint is within that agency's jurisdiction;
  - 7.** Advise any party to a Complaint (Reporting Individual, Alleged Victim, or Respondent) that he or she is entitled to the services of a College or District-provided Advocate, as defined in Administrative Regulation C-14, Sections II.A and III. E, above, and/or the services of a private representative.
- B.** Any efforts at informal resolution after the filing of an Informal Complaint will not exceed 30 Days.
- C.** In order to comply with the timelines herein, the Compliance Officer who is conducting an informal investigation shall contact the Respondent, even if he/she is not regularly scheduled to participate in District-related activity.
- D.** Settlement Agreement. If a resolution is reached during the Informal Procedure process, the Compliance Officer shall draft a settlement agreement to be signed by the Reporting Individual and/or Alleged Victim and Respondent. The Compliance Officer shall monitor the situation to insure that the resolution is properly implemented. Upon execution of the settlement

agreement, all original materials relating to the matter shall be maintained permanently by the investigating office and cross-referenced by the names of all parties involved.

## **VII. Formal Complaint Procedure**

- A.** Complaint: A Reporting Individual and/or Alleged Victim may pursue a Complaint of prohibited discrimination, unlawful harassment and/or Sexual Misconduct by communicating, verbally or in writing, to the Director, Office for Diversity, Equity, and Inclusion or to the Deputy Chancellor. The Reporting Individual and/or Alleged Victim shall then be assisted with the process of preparing a written Complaint for the Reporting Individual and/or Alleged Victim's signature.
- 1.** A Complaint may be filed by someone who alleges that he or she has personally suffered Prohibited Discrimination, Unlawful Harassment and/or Sexual Misconduct, or by one who has learned of potential Prohibited Discrimination, Unlawful Harassment and/or Sexual Misconduct in his or her official capacity as a faculty member or administrator.
  - 2.** A written Complaint may, but is not required to be, filed on the form prescribed by the State Chancellor. Each Compliance Officer and the Director, Office for Diversity, Equity, and Inclusion will provide a copy of the blank form upon request by any person.
  - 3.** If the Compliance Officer or the Director, Office for Diversity, Equity, and Inclusion receives a Complaint that does not comply with the provisions of this section, the Compliance Officer or the Director, Office for Diversity, Equity, and Inclusion, shall immediately notify the complainant of the reason that the Complaint is deemed defective and cannot be processed.
- B.** Alternative Filing: The Reporting Individual and/or Alleged victim may also submit his or her written Complaint directly to the State Chancellor's Office of the California Community Colleges.

## **C. Timeliness**

- 1.** The Complaint in cases not involving Sexual Misconduct shall be filed no later than one year from the date when the Reporting Individual and/or Alleged Victim knew or reasonably should have known of the facts underlying the Complaint. The Compliance Officer shall advise a Reporting Individual and/or Alleged Victim that he or she may also file a non-employment based Complaint with the Office for Civil Rights, U.S. Department of Education (OCR) when such a Complaint is within the agency's jurisdiction. For a Complaint arising from or related to employment, the Complaint may be filed with the Department of Fair Employment and Housing and/or the Equal Employment Opportunity Commission. All Complaints must be filed within one year of the date of the alleged potential unlawful discrimination.
- 2.** A Sexual Misconduct (Title IX) Complaint must be filed within 180 Days of the date of the alleged discrimination, unless the time for filing is extended for good cause by OCR (the Enforcement Office Director, Office for Civil Rights, U.S. Department of Education). Prior to filing a Complaint with OCR against an institution, a potential Reporting Individual and/or Alleged Victim may want to use the College's or District's process to have the Complaint resolved (though this is not required). If a Reporting Individual and/or Alleged Victim uses the College's or District's process and then chooses to file with OCR, his or her Title IX Complaint must be filed with OCR within 60 Days after the College's or District's complaint process is final.
- 3.** Investigations should be completed in 60 calendar Days unless good cause exists for extending the time, in which case all parties must be kept informed.
- 4.** Time limits under this policy will not be extended or waived by the unavailability of a designated representative.
- 5.** If a Compliance Officer or an administrator becomes aware that an investigation or Decision cannot be completed

within the time frames specified, he or she shall immediately notify the Director for Diversity, Equity, and Inclusion. The Director will address the matter with the State Chancellor's Office as necessary to obtain an extension if warranted.

**D.** Equity; Communication with Parties: In Sexual Misconduct (Title IX) cases, all parties must be treated equitably. The same amount of notice and the same opportunities to appear and present information shall be provided to both parties and the same services shall be available to both parties.

**E.** Notifications

**1.** Notifications to Reporting Individual and/or Alleged Victim

Within five (5) business Days after receiving a Complaint, or, for good cause, as soon thereafter as is practical, a Compliance Officer shall notify the Reporting Individual and/or Alleged Victim of receipt of Complaint and that an investigation has commenced.

**2.** Notification to Administration

Within five (5) business Days after receiving a Complaint or, for good cause as soon thereafter as is practical, the Compliance Officer shall provide the original Complaint to the Director, Office for Diversity, Equity, and Inclusion, with a copy to the College President at the relevant college, or, at the ESC, to the Deputy Chancellor.

**3.** Notification to Respondent/Alleged Offender

Within five (5) business Days after receiving a Complaint, or, for good cause, as soon thereafter as is practical, a Compliance Officer shall provide a summary of the Complaint to the Respondent/Alleged Offender. The Compliance Officer will ensure that personal information about the Reporting Individual and/or Alleged Victim and other individuals who may be mentioned in the Complaint is not unnecessarily disclosed to the alleged offender.

**VIII. Title IX**

**A.** College or ESC Behavioral Intervention Team ("BIT"), Sexual Misconduct Awareness and Response Team ("SMART"):

- 1.** Each College President and the Deputy Chancellor for the Education Services Center (ESC) will designate a Behavioral Intervention Team ("BIT"). Each BIT will designate from among its members a Sexual Misconduct Awareness and Response Team (SMART) to sponsor College (or ESC) prevention, intervention, and education efforts related to Sexual Misconduct. The SMART should consist of more than one person. Recommended team members include: the First Responder, two (2) counselors, a representative from college law enforcement, the Vice President for Student Services or other delegate for student matters, the site designee for employee matters, a health services representative, the College or ESC Title IX Coordinator, and additional representatives as needed by the site. This list will be adapted as appropriate to the ESC.

The SMART may be a revision of the former Healthy Advocacy Response Team (HART). The SMART shall be designated by the name of the location as well as the SMART designation, e.g., Pierce SMART, Harbor SMART, City SMART or ESC SMART.

- 2.** Resource List: The College Title IX Coordinator, a member of the SMART, (or at the ESC the Title IX Coordinator) shall maintain a current list of community agencies from which individuals can receive further assistance. These referrals shall include but not be limited to: the counseling department, faculty advisors, women's reentry centers, health centers, campus law enforcement, the ASO office, the Employee Assistance program, employee representative, the union, rape trauma centers, medical facilities, rape counseling centers, and women's centers. These are resources to which sexual assault Reporting Individuals and/or Alleged Victims, as well as Respondents and Alleged Offenders may be referred for assistance. This list shall be provided to all sexual assault misconduct parties along with information regarding their rights, Complaints, and procedures.
- 3.** The College Title IX Coordinator, a member of the SMART, (or at the ESC the Title IX Coordinator) shall be identified

as the college (or ESC) point of contact for matters relating to Sexual Misconduct reporting, prevention, and response.

- 4.** At least one member of the Sexual Misconduct Awareness and Response Team should be designated as a First Responder. If this is not the College Title IX Coordinator, the First Responder must report all incidents to the Title IX Coordinator as soon as possible. Ideally, the First Responder is the first official contact with a person alleging to have been sexually assaulted. First Responders will ensure that Alleged Victims of Sexual Misconduct are informed of the college, District, and community resources available to assist them, including campus law enforcement (see below). First Responders should be qualified and trained to respond to people who may be in crisis, having just experienced a traumatic event. Students may serve on the College Sexual Misconduct Awareness and Response Team but should not be designated as First Responders unless they are also employed by the college and are otherwise qualified.
- 5.** Alleged Victims of Sexual Misconduct in the District (at a College or in the ESC) have an option to notify either a First Responder from the Sexual Misconduct Awareness and Response Team or District security/college law enforcement (at all locations this is the Sheriffs' Department) of the incident. If a sexual assault is first reported to an employee who is not a First Responder, a Title IX Coordinator, or college law enforcement, that employee is a Responsible Employee as defined herein and is obligated to report what he/she has been told to a Title IX Coordinator. The Responsible Employee may also provide the Alleged Victim with the option of reporting to a Title IX Coordinator or to College law enforcement.

**B. Student Respondents**

- 1.** When a Respondent/Alleged Offender is a student, consistent with the Student Discipline Procedures set out in Article XI, section 91101.11 b, several levels of discipline are possible. In cases of Sexual Misconduct by a student, sanctions (disciplinary actions) shall be equivalent to the

discipline issued for an employee or other non-student Respondent; e.g., if an employee is to be suspended (or terminated) from his/her job, the student would be suspended (or expelled) from school.

2. Complaints alleging Sexual Misconduct by a student will be investigated by a Compliance Officer. If a student Respondent is determined responsible for the acts alleged, the matter may be referred for student discipline. Any interim sanctions should follow the student discipline process in Chapter IX, Article XI of the Board Rules.

**C. Employee Respondents**

The procedures set forth herein apply to employee respondents unless otherwise explicitly stated, such as those related to Student Respondents, immediately above.

- D. When the Compliance Officer completes an investigation, he/she shall submit a report to the college president or, at the ESC, to the Deputy Chancellor. The college president or Deputy Chancellor determines whether or not the Respondent is responsible for the acts alleged.

**IX. Sexual Misconduct Investigation and Reporting**

- A. After learning of a complaint of sexual misconduct, the Title IX Coordinator or the College Title IX Coordinator for that location should do the following:
  1. Provide information to the Reporting Individual and/or Alleged Victim, and to the alleged offender (if identified) about District policy for handling Sexual Misconduct Complaints, including information about privacy and Confidentiality, and about resources (both on and off campus) which are available to him or her to help with handling this matter;
  2. Inform the Reporting Individual and/or Alleged Victim of the possible need to preserve medical evidence which may affect future legal or disciplinary action;
  3. Inform the Reporting Individual and/or Alleged Victim that the Title IX Coordinator and the College Title IX

Coordinator are required to report the incident. The Title IX Coordinator should also inform the Reporting Individual and/or Alleged Victim that, if she/he does not want an investigation, then he/she may speak to someone who can maintain the Reporting Individual's and/or Alleged Victim's Confidentiality. One individual who can maintain Confidentiality is a Mental Health Professional in the Health Center who is acting in his or her professional capacity. An employee at the Educational Services Center who wishes to make a confidential report may be advised to contact the EAP/MHN or go to a local women's center or rape crisis center;

- 4.** Inform the Reporting Individual and/or Alleged Victim of her/his right to report this matter to either campus or ESC law enforcement and/or the local Police Department; and
  - 5.** Inform the Reporting Individual and/or Alleged Victim of legal and disciplinary options available to her/him, including:
    - a.** criminal prosecutions;
    - b.** civil action; and
    - c.** relevant District disciplinary process (and that utilizing this resource does not preclude taking criminal or civil remedies), and
  - 6.** Inform college or ESC law enforcement (as appropriate to the location), of the incident for Clery reporting purposes, without providing names; and
  - 7.** Coordinate ongoing campus/ESC and community assistance.
- B.** When an allegation of Sexual Misconduct is made to campus or ESC law enforcement, campus/ESC law enforcement should do the following:



- 1.** Provide immediate medical attention as may be required;
- 2.** Inform the Reporting Individual and/or Alleged Victim of any possible need to preserve medical evidence which may affect future legal or disciplinary action;
- 3.** Confidentiality: Inform the Reporting Individual and/or Alleged Victim that law enforcement is required to inform the Title IX Coordinator at their location of the matter, and once so informed, the Title IX Coordinator must investigate the incident and report what he/she learns about it. Law enforcement should explain to the Reporting Individual/Alleged Victim that if she/he does not want an investigation, then she/he might choose to go to the Health Center on campus and speak to a Mental Health Professional, acting in his or her professional capacity, or for an ESC employee, contact the EAP/MHN, and avoid the reporting requirement;
- 4.** Attempt to identify the alleged offender;
- 5.** Resources: Provide the Reporting Individual and/or Alleged Victim and the Respondent with referrals to appropriate community agencies from which she/he can receive further assistance. These referrals shall include but not be limited to sites such as: the college counseling department, faculty advisors, women's reentry centers, health centers, campus or ESC law enforcement, the ASO office, the Employee Assistance Program (Mental Health Network) [EAP/MHN], employee representatives, the unions, Advocates, rape crisis centers, medical facilities, rape counseling centers, mental health facilities, and women's centers;
- 6.** Inform the Reporting Individual and/or Alleged Victim of possible legal and disciplinary options for the Respondent if found responsible, including any or all of the following:
  - a.** criminal prosecutions,
  - b.** civil action, and

- c.** relevant District disciplinary action.
  
  - 7.** Within twenty-four (24) hours of being notified of a sexual assault, with the Consent of the Reporting Individual and/or Alleged Victim, the campus/ ESC law enforcement shall notify the President/Deputy Chancellor or a First Responder of the sexual assault and the Reporting Individual's name unless the individual has requested privacy. Campus/ESC law enforcement shall also give the same notification to the Title IX Coordinator or the College Title IX Coordinator, depending on the location of the incident.
- 
- C.** The President/Deputy Chancellor or his/her designee shall refer a student Reporting Individual and/or Alleged Victim to the Title IX Coordinator at the student's location for assistance if he/she experiences academic difficulties that may arise as a result of the sexual assault and its impact on the student. The Title IX Coordinator, in cooperation with the Vice President of Academic Affairs and/or Student Services may provide temporary sanctions to alleviate the immediate impact of the sexual assault on the Reporting Individual or Alleged Victim. In addition, the President/Deputy Chancellor or his/her designee shall refer a non-student Reporting Individual to the Title IX Coordinator for that location for assistance (such as temporary sanctions) with workplace or other immediate difficulties that may arise as a result of the sexual assault and its impact on the person.
  
  - D.** Temporary sanctions shall be implemented by the Title IX Coordinator at that location as required by the situation to separate the Alleged Victim and the Respondent, as appropriate. Such temporary sanctions may include moving one party to another section of the same class or to a different online location, providing the Alleged Victim with an escort across campus, or permitting the Alleged Victim to take exams in a different location from the Respondent and/or alleged offender and any similar action(s) intended to separate the parties and reduce the stress on them arising from this incident and these allegations.

- E.** The Title IX Coordinator or College Title IX Coordinator, as appropriate, shall also maintain a current list of community agencies to which individuals reporting allegations of sexual assault, as well as Respondents, may be referred for assistance. The list shall contain the same resources referred to in Section VIII.A.2, above.
- F.** The Reporting Individual and/or Alleged Victim shall be kept informed of the status of disciplinary proceedings against the Respondent arising from the alleged sexual assault, and the results thereof to the extent allowed by law.
- G.** In the event that reporting a sexual assault involves revealing a violation or violations of the Code of Conduct, such as regarding the use or abuse of alcohol and/or other prohibited substance, the college may consider granting amnesty to the Reporting Individual and/or Alleged Victim who reported the sexual assault regarding the related Conduct violation.
- H.** The President/Deputy Chancellor or his/her designee shall ensure that information regarding reporting sexual assaults on campus, including the name of the Title IX Coordinator and College Title IX Coordinator, is referenced in college publications such as the catalog, schedule of classes, and the college website. Such references shall indicate that the list of resources referred to in VIII.A.2, above, may be obtained from the Title IX Coordinator at that location, or from college/ESC law enforcement. The list of available resources shall be updated on an annual basis.
- I.** Requests for information about sexual assaults shall be referred to the appropriate College President or to the designated Title IX Coordinator for each location on the basis of the respective location of such incidents

**X. Compliance Officer's Report**

- A.** Within sixty (60) calendar Days after becoming aware of a potential violation of this policy, the Compliance Officer shall complete an investigation and make a written report to the College President or, at the ESC, to the Deputy Chancellor. A

copy of the Compliance Officer's report shall be sent to the Director, Office for Diversity, Equity, and Inclusion. In the case of a sexual harassment or Sexual Misconduct investigation, a copy of the Compliance Officer's report shall also be sent to the Title IX Coordinator.

**B.** Oral Presentation Letter:

The College President, or at the ESC the Deputy Chancellor shall send by certified mail, return receipt requested, to the Reporting Individual and/or Alleged Victim and to the Respondent a summary of the Compliance Officer's report in an Oral Presentation Letter. In order to protect rights of privacy and minimize the risk of retaliation, the full report shall be confidential to the person responsible for making the Written Decision, and shall not be provided to the Reporting Individual and/or Alleged Victim or Respondent except as required by legal process.

The Oral Presentation Letter notifies the Reporting Individual and/or Alleged Victim and the Respondent that they have the right to make an oral statement to the College President or for employees at the ESC, to the Deputy Chancellor, provided the person wishing to do so makes himself or herself available within fifteen (15) Days from receipt of the summary of the report.

- C.** If the allegations implicate a College President, the report shall be made to the Chancellor. If the allegations implicate a Vice Chancellor or anyone else under the direct supervision of the Chancellor, the report shall be submitted to the Chancellor with a copy to the Board of Trustees. If the allegations implicate the Chancellor, the report shall be made to the Deputy Chancellor, with a copy to the Board of Trustees. If the Complaint implicates a Compliance Officer or the Director for Diversity, Equity, and Inclusion, the Complaint shall be referred to the Deputy Chancellor, who shall appoint another Compliance Officer to investigate and who shall perform the duties of the Director of Diversity, Equity, and Inclusion in carrying out this policy.

- D.** A summary of the report shall be provided to the Reporting Individual and to the Alleged Victim, if different, as well as to the Alleged Offender. In order to protect rights of privacy, the full report shall be confidential to the person responsible for

making the Written Decision, and shall not be provided to the Reporting Individual, Alleged Victim, or Alleged Offender, except as required by legal process.

## **XI. Decision**

- A.** The College President or the Deputy Chancellor shall send the Written Decision by regular mail and by certified mail, return receipt requested, to the Reporting Individual and/or Alleged Victim and to the Respondent, pursuant to subsection "B" below, with their respective Appeal rights. The Director, Office for Diversity, Equity, and Inclusion shall be responsible for forwarding a copy of the Written Decision to the State Chancellor's Office when required by Title 5, Section 59336.
- B.** Written Decision: In Prohibited Discrimination and (non-sexual) Unlawful Harassment cases, pursuant to Title 5 Section 59336, the Written Decision shall be made within ninety (90) days from the start of the investigation. In cases involving Sexual Harassment and Sexual Misconduct, including combined cases, pursuant to the requirements of Title IX of the Education Amendments of 1972, the Written Decision shall be made within sixty (60) Days. In all types of cases, the Written Decision shall include the following:
- 1.** The determination by the College President or Deputy Chancellor whether a preponderance of evidence supports a finding that prohibited discrimination, unlawful harassment, and/or Sexual Misconduct, occurred with respect to each allegation in the Complaint;
  - 2.** The proposed resolution of the Complaint and action to be taken to prevent similar occurrences in the future, if appropriate; and
  - 3.** The following statement:  
  
"Please note that the Reporting Individual and/or Alleged Victim, and in Sexual Misconduct cases also the Respondent/Alleged Offender, have the right to Appeal this determination to the District's Board of Trustees by submitting a written Appeal to the District Chancellor's Office within fifteen (15) Days from the date of this notice. The Board may review the matter and act within forty-five

(45) Days of receipt of the Appeal. If the forty-five (45) Days have elapsed without action by the Board of Trustees, this Decision is considered the final District Decision.

4. In cases not arising from or related to employment, the Written Decision will also include the following statement: "Please note further that the Reporting Individual and/or Alleged Victim, and in Sexual Misconduct cases the Respondent/Alleged Offender, have the right to file a written Appeal with the State Chancellor within thirty (30) Days after the final District Decision is issued by the Board of Trustees, or the forty-five (45) day period has elapsed, whichever comes first."

This statement shall not be included for any matters involving allegations of Prohibited Discrimination on the basis of pregnancy, marital status, veteran's status, or for cancer-related medical condition of an employee because the California Education Code, Title 5, provides no right of Appeal to the State Chancellor for such matters.

- C. All final Written Decision letters which sustain the allegation(s) and are sent to parties who are employees shall also include the following statement:

"In accordance with paragraph 11C of the District's Procedures for Prohibited Discrimination, Unlawful harassment, and Sexual Misconduct Complaints, a copy of this written Decision shall be placed in your personnel file in a sealed envelope. You have a right to submit a response to this Decision, which will also be placed in your personnel file."

- D. All final Written Decision letters which sustain the allegation(s) and are sent to Respondents who are students shall include the following statement:

"In accordance with paragraph 11D of the District's Procedures for Prohibited Discrimination, Unlawful harassment, and Sexual Misconduct Complaints, your transcripts shall be annotated with one of the following, as appropriate: 'Disciplinary Expulsion,' 'Disciplinary Suspension,' 'Disciplinary Action being Appealed,' or 'Withdrawal Pending Conflict Resolution'."

- E. If the Complaint or alleged violation implicates the Chancellor, and does not arise from or is not relate to employment, the

report shall include XI.B.1 and XI.B.2, above, and the following statement:

"The Reporting Individual and/or Alleged Victim, and in Sexual Misconduct cases also the Respondent have the right to file a written appeal of this Decision with the State Chancellor's Office of the California Community Colleges within thirty (30) Days from the date of this Decision."

Pursuant to the California Education Code, Title 5, this statement shall not be included, and there shall be no right of appeal to the State Chancellor, for any matters involving allegations of Prohibited Discrimination on the basis of pregnancy, marital status, veteran's status, or for cancer-related medical condition of an employee.

- F.** A copy of a Written Decision which sustains the allegations shall be placed in a sealed envelope in the personnel file of any employee involved as a Reporting Individual and/or Alleged Victim and as a Respondent. Said employee has a right to submit a response to the Written Decision, which will also be placed in the employee's personnel file.
- G.** In accordance with paragraph XI.D of the District's Procedures for Prohibited Discrimination, Unlawful harassment, and Sexual Misconduct Complaints, the transcripts of a student Respondent who has been found responsible for the alleged violations shall be annotated with one of the following, as appropriate: 'Disciplinary Expulsion,' 'Disciplinary Suspension,' 'Disciplinary Action being Appealed,' or 'Withdrawal Pending Conflict Resolution'."

## **XII. Disciplinary Action**

- A.** Due Process: Disciplinary actions, if any, shall be pursued in accordance with the Respondent/alleged offender's due process rights, as defined by law, the Board Rules, the Personnel Commission, Student Discipline Policy and Procedures, and/or any applicable collective bargaining agreement or Memoranda of Understanding.
- B.** When a determination has been made that disciplinary action is to be taken, the College President or, at the ESC, the Deputy Chancellor or Chancellor, or his or her designee, shall initiate the

applicable disciplinary process within ten (10) business Days of issuing the Written Decision or, for good cause, as soon thereafter as is practical.

In Sexual Misconduct (Title IX) cases, all parties to the matter (Respondent and Reporting Individual and/or Alleged Victim) must receive the same notifications, mailed at the same time, regarding all steps of the disciplinary process. They must all be given equivalent rights to be heard and access to an Advocate, and must receive comparable notification of the outcome of the disciplinary actions, subject to legal and District limitations related to the privacy of the parties. All parties must be notified that disciplinary action is being taken, with specific details sufficient to ameliorate concerns of the person who was the object of the violations, subject to legal and District limitations related to the privacy of the parties.

Failure by a receiving Supervisor or Administrator to proceed promptly with the disciplinary action shall be a basis for discipline, up to and including discharge. The receiving Supervisor or Administrator shall report the status of the disciplinary process in a timely and regular manner to the College President, or, at the ESC, to the Deputy Chancellor or the Chancellor. A copy of the report shall also be filed with the Title IX Coordinator and the Office for Diversity, Equity, and Inclusion.

- C.** Employees. Disciplinary actions, if any, shall be pursued in accordance with the Respondent's due process rights, as defined by law, the Board Rules, the Personnel Commission, and/or any applicable collective bargaining agreement or Memoranda of Understanding. Disciplinary action against employees shall include, without limitation, verbal warnings, letters of reprimand, Notices of Unsatisfactory Service, suspensions, demotions or dismissals.
- D.** Students. Any disciplinary actions against a student shall be pursued in accordance with the California Education Code and the Board Rules (i.e., Chapter IX, Article XI). Disciplinary actions pursuant to Chapter IX, Article XI may include, but not are limited to, warnings, probation, suspension or expulsion.
- E.** A Respondent's due process rights shall generally require the production of a summary of the Compliance Officer's report at the time the Respondent is served with charges in support of a



potential loss of pay or expulsion. However, some portions, such as student records, witnesses' telephone numbers or addresses, may be blocked out to protect privacy interests.

- F.** In all cases, when a College President or the Deputy Chancellor has determined that probable cause exists to support a finding of Sexual Misconduct, then the matter shall also be reported to the College or ESC Title IX Coordinator for record-keeping purposes.

### **XIII. Appeals**

- A.** Appeals by the Reporting Individual and/or Alleged Victim in Prohibited Discrimination and Unlawful Harassment cases (not in Sexual Misconduct cases) shall be handled as described below:

- 1.** For Complaints implicating anyone other than the Chancellor, if the Reporting Individual and/or Alleged Victim is not satisfied with the Written Decision that has been made, he or she may file a written appeal to the Board of Trustees within fifteen (15) Days from the date the Written Decision was postmarked. The Appeal shall state with particularity the basis for the Appeal.
- 2.** For Complaints implicating the Chancellor, the Written Decision by the Board of Trustees shall constitute the final Decision of the District.

- B.** Appeals by the Respondent in Prohibited Discrimination and Unlawful Harassment cases (not in Sexual Misconduct cases) shall be handled as described below:

- 1.** Appeals of the Written Decision by the alleged offender shall be made by making the appropriate challenges within the course of the applicable disciplinary process.

- C.** Appeals of Sexual Misconduct cases:

In the event any party to a Sexual Misconduct case is not satisfied with the Written Decision, he or she may file a written Appeal to the Board of Trustees within fifteen (15) Days from the date the Written Decision is postmarked. The Appeal shall state with particularity the basis for the Appeal. Immediately upon receiving the Appeal, the Executive Secretary to the Board of Trustees must inform the Director of the Office of Diversity,

Equity, and Inclusion or the Title IX Coordinator. The individual informed of the Appeal must then promptly notify the other party(ies) of the Appeal and of their right to participate in the Appeal process.

Notice to the non-appealing party (parties) shall state that an Appeal has been filed and shall offer them an opportunity to attend and present at a hearing and/or submit a written response, all within fifteen (15) working Days from the date notice was mailed. This additional Appeal will be considered along with the initial Appeal filed by the other party.

**D. Action by the Board of Trustees:**

The Chancellor shall present the written Appeal, the Written Decision, the Compliance Officer's report and the Complaint to the Board of Trustees in closed session. The Board of Trustees may review the Decision and act within forty-five (45) Days. If the forty-five (45) Days has elapsed without action by the Board of Trustees, the Written Decision shall constitute the final Decision of the District.

**XIV. Additional Remedies**

A Reporting Individual, and/or Alleged Victim is entitled to pursue independently civil law remedies, including but not limited to injunctions, restraining orders, or other orders. An individual who believes that he or she is the victim of unlawful discrimination may file a Complaint with the Department of Fair Employment and Housing (DFEH), and the Equal Employment Opportunity Commission (EEOC). Non-employment related Complaints may be filed with the Office for Civil Rights, United States Department of Education (OCR). These may be pursued without regard to whether the individual chooses to utilize the District's internal Complaint procedures described herein. Anyone who believes he or she has been a victim of prohibited discrimination, unlawful harassment, or Sexual Misconduct should be aware that both state and federal law impose time deadlines for the filing of Complaints, and the use of the District's internal Complaint procedure will not postpone applicable deadlines.