

LOS ANGELES COMMUNITY COLLEGES
BOARD RULES, CHAPTER XV
PROHIBITED DISCRIMINATION AND HARASSMENT

15001. POLICY.

The policy of the Los Angeles Community College District is to provide an educational, employment and business environment free from Prohibited Discrimination, as defined in Rule 15003.

Employees, students, or other persons acting on behalf of the District who engage in Prohibited Discrimination as defined in this policy or by state or federal law shall be subject to discipline, up to and including discharge, expulsion or termination of contract. The specific rules and procedures for reporting allegations of Prohibited Discrimination and for pursuing available remedies are incorporated in the Board Rules in Chapter 15. Copies may be obtained by accessing the District website or from the Office of Diversity Programs.

Adopted 02-22-95
Amended 06-13-07
Amended 11-05-14

15002. ACADEMIC FREEDOM.

The Board of Trustees reaffirms its commitment to academic freedom, but recognizes that academic freedom does not allow Prohibited Discrimination. The discussion of ideas, taboos, behavior or language which is an intrinsic part of the course content shall in no event constitute Prohibited Discrimination. It is recognized that an essential function of education is a probing of received opinions and an exploration of ideas which may cause some students discomfort. It is further recognized that academic freedom ensures the faculty's right to teach and the student's right to learn.

Adopted 02-22-95
Amended 06-13-07

15003. DEFINITIONS.

A. "Appeal"

means a request by a complainant 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.

B. "Complaint"

means a written and signed statement meeting the requirements of Title 5, section 59328 that alleges Prohibited Discrimination in violation of the nondiscrimination regulations adopted by the Board of Governors of the California Community Colleges, as set forth at Title 5, section 59300 et seq., or any other form of conduct that is Prohibited Discrimination under this policy. A Complaint may be filed by someone who alleges that he or she has personally suffered Prohibited Discrimination or by one who has learned of potential Prohibited Discrimination in his or her official capacity as a faculty member or administrator, and individuals and entities filing a complaint on behalf of another individual or class of individuals.

C. "Days"

shall mean 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.

D. "Decision"

shall mean an administrative determination as described in Rule 15015, and as provided in Title 5, Section 59336.

E. "District"

means 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. This includes the District Personnel Commission and any other organization associated with the District or its colleges that receives state funding or financial assistance through the District.

F. "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.

G. "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 (E) (1) that requires specialized supportive services.
- (3)** Having a record or history of a mental or psychological disorder or condition described in paragraph (E) (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 (E) (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.

H. "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 (F) (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 (F)(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 (F) (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.

I. "Prohibited Discrimination"

is defined as discrimination or harassment in violation of state or federal law on the basis of actual or perceived ethnic group identification, race, color, national origin, ancestry, religion, creed, sex (including gender-based sexual harassment), pregnancy, marital status, cancer-related medical condition of an employee, sexual orientation, age, physical or mental disability, or veteran status.

J. "Retaliation"

shall mean adverse personal behavior or adverse employment or academic decisions that are based primarily upon an individual's participation as a complainant, witness, alleged victim, investigator, decision-maker, representative or advisor, or other retaliation as prohibited by state or federal law.

K. "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 in the educational setting, and 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 a 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 or pictures, cartoons, or posters.

- (2) Continuing to express sexual interest after being informed that the interest is unwelcomed.
- (3) Making reprisals, threats of reprisal, or implied threats of reprisal following a rebuff or harassing behavior, for example, implying or actually withholding grades earned or deserved; suggesting a poor performance evaluation will be prepared; 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.

L. "Sexual Orientation"

means heterosexuality, homosexuality, or bisexuality.

M. "Supervisor"

means 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. This definition of Supervisor shall apply only in the context of this policy.

Adopted 02-22-95
Amended 06-13-07
Amended 11-05-14

15004. FALSE ALLEGATIONS.

Anyone who files a Complaint pursuant to this policy 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 complainant has made false allegations about a violation of this policy shall be made through this policy only.

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Amended 06-13-07

15005. CONFIDENTIALITY AND RECORDKEEPING.

- A.** All persons involved in investigation 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.
- 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 of Diversity Programs.
- 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 Programs and cross-referenced by the names of the persons involved. Files regarding formal Complaints and appeals to the Board of Trustees will also be maintained by the Office of Diversity Programs.

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15006. DIRECTOR, OFFICE OF DIVERSITY PROGRAMS.

- A. Designation of Responsible Officer:**
The District's designated officer responsible for receiving complaints and coordinating investigations from within the District, from other governmental agencies, and from outside sources shall be the Director of Diversity Programs. These duties may be delegated to the Compliance Officers.
- B. Responsibilities for Implementation:**
In addition to other responsibilities as may be designated for the position, the Director, Office of Diversity Programs shall be responsible for the implementation of this policy, and for

District compliance with federal and state compliance and reporting requirements relating to Prohibited Discrimination. The Director, Office of Diversity Programs shall also be responsible for training the Compliance Officers and other employees regarding their duties under this policy.

C. Reporting to the State Chancellor

- 1.** The Director, Office of Diversity Programs shall forward a copy of any filing with the Department of Fair Employment and Housing to the State Chancellor's Office.
- 2.** The Director, Office of Diversity Programs shall be responsible for making reports to the State Chancellor's Office as required by Title 5, Sections 59336, 59338 and 59340.

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15007. COMPLIANCE OFFICERS.

A. Appointment and Reporting Lines:

The Deputy Chancellor or his or her designee shall appoint Compliance Officers. Compliance Officers shall report to the Director, Office of Diversity Programs

B. Training:

The Director, Office of Diversity Programs shall be responsible for conducting appropriate training and providing advice and counsel for the Compliance Officer and shall be responsible for ongoing advice and counsel for each Compliance Officer.

C. Role:

The role of the Compliance Officer shall be as an impartial resource, fact-finder and investigator and not as advocate for any party.

D. The Director:

Office of Diversity Programs shall be responsible for training the Advocates for Students for their respective colleges, and for ensuring that the College President makes an annual designation of Advocates for Students as required in Board Rule 15008(A).

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15008. ADVOCATES FOR STUDENTS.

- A.** Each college president, in consultation with the ASO President and the Chief Student Services Officer, shall designate annually employees who shall serve as advocate(s) for students. This person's title shall be Advocate for Students ("AFS").
- B.** The Director, Office of Diversity Programs, or his or her designee shall be responsible for training each AFS. The training shall take place prior to the AFS assuming the duties of the position.
- C.** Whenever an AFS is named in the Complaint or is implicated by an allegation within the Complaint, or if the AFS is unavailable, the college president shall obtain the services of another AFS within the District.
- D.** A student who is involved as an alleged victim or alleged offender will be entitled to an AFS upon the initiation of an investigation or informal procedure under Rules 15012 or 15013. An AFS will be provided to a student until issuance of a Written Decision pursuant to Rule 15016.

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15009. DUTIES OF SUPERVISORS AND EMPLOYEES.

- A.** 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 to the Director, Office of Diversity Programs.
- B.** 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 refer that information to the Office of Diversity Programs.
- C.** Failure to comply with (A), or (B) above, may be a basis for discipline.

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15010. PUBLICATION.

- A.** This policy shall be published in accordance with District practices for publication of new Board Rules.
- B.** Each college president shall be responsible for ensuring that a summary of this policy as authorized by the Chancellor or his or her designee ("Summary") is published in each campus' catalogue and schedule of classes, and that the entire policy and procedures shall be prominently posted with other official District announcements.
- C.** The Summary of this policy shall be given to each new employee at the time of hiring by the applicable Personnel Office.
- D.** The college presidents and the Deputy Chancellor or his or her designee shall be responsible for posting the Summary in appropriately prominent locations for the benefit of employees and students at their respective worksites.
- E.** The Summary shall include a statement advising potential complainants that administrative and civil law remedies, including but not limited to injunctions, restraining orders or other orders may also be available.

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15011. TRAINING AND EDUCATION.

- A.** The Director, Office of Diversity Programs or his or her designee shall be responsible for providing an education and training program on this policy. The program shall be mandatory for every new employee at the commencement of his or her employment.
- B.** An education and training program shall be made available to students at least once annually.
- C.** The Director, Office of Diversity Programs shall be responsible for providing a mandatory training program on this policy for all Supervisors within six months of their assignment to a supervisory position and annually thereafter.
- D.** The training program shall include a discussion regarding the False Allegations provisions in Rule 15004.
- E.** The Director, Office of Diversity Programs shall be responsible for providing a training program on this policy and on representation skills that will be mandatory for all AFS's prior to assuming their positions. The ASO President and/or his or her designee may also attend the annual training. Thereafter, the AFS' shall attend the training program for Supervisors.

- F.** The college presidents and the Deputy Chancellor shall be responsible for verifying training attendance at their respective worksites.

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15012. INVESTIGATION.

- 1.** The Compliance Officer shall promptly investigate all potential violations of this policy of which he or she becomes aware. When he or she becomes aware of a potential violation of this policy, the Compliance Officer shall promptly investigate and notify both (1) the College President or, at the District Office, the Deputy Chancellor, and (2) the Director, Office of Diversity Programs that an investigation is being conducted. Such an investigation may be initiated on the basis of a Complaint, a referral from a Supervisor or employee, or any other information indicating a potential violation of this policy from any other source. The Los Angeles Community College District will ensure each complaint will undergo an adequate, reliable, impartial investigation. Both the complainant and alleged offender will be afforded the opportunity to present witness and evidence.
- 2.** Investigation without a Complaint. In the absence of a Complaint, the Compliance Officer shall conduct a preliminary investigation, which shall be completed within the first thirty calendar days after he or she becomes aware of a potential violation of this policy. If, as a result of the preliminary investigation, the Compliance Officer finds that there is a prima facie case of Prohibited Discrimination, the Compliance Officer shall sign the Complaint. A "prima facie" case means that there is evidence which, if unexplained or uncontradicted, would be sufficient to make a finding that Prohibited Discrimination had occurred, but which may be contradicted by other evidence in the course of a complete investigation. The investigation and report as required in Rule 15015 shall be completed a Compliance Officer designated by the Director, Office of Diversity Programs. If the Compliance Officer's preliminary investigation results in a finding that there is not a prima facie case of Prohibited Discrimination, the Compliance Officer shall advise the complainant and alleged offender in writing, with a copy to the College President, Deputy Chancellor, and the Director, Office of Diversity Programs. Findings may be appealed in accordance within these rules.

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15013. INFORMAL PROCEDURE.

- A.** Upon receiving an allegation of Prohibited Discrimination, the Compliance Officer or the Director, Office of Diversity Programs, as applicable, shall within five (5) days, or for good cause, as soon thereafter as practicable:
- 1.** Notify the complainant of the procedure for filing a formal Complaint;
 - 2.** Undertake efforts to informally resolve the charges;
 - 3.** Advise the complainant that participation in informal resolution is not required;
 - 4.** Assure the complainant that he or she will not be required to confront or work out problems with the person accused of Prohibited Discrimination.
 - 5.** Advise a complainant that at any time she/he may file a non-employment-based complaint with the Office of Civil Rights of the U.S. Department of Education (OCR); where such a complaint is within that agency's jurisdiction.
 - 6.** Advise the complainant 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.
 - 7.** Advise any employee involved as an alleged offender or alleged victim that the employee is entitled to have a representative in the process, and advise any student involved as an alleged offender or alleged victim that the student is entitled to be represented by an Advocate for Students. An alleged offender may not be represented by an Advocate for Students after the issuance of a Written Decision.
- B.** Any efforts at informal resolution after the filing of a written Complaint will not exceed the 90-day period for rendering the administrative determination pursuant to Title 5, section 59336.
- C.** In order to comply with the timelines herein, the Compliance Officer who is conducting an investigation shall contact the alleged offender, even if he or 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 alleged victim, the complainant (if different from the alleged victim), and the alleged offender. 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.

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15014. COMPLAINT PROCEDURE.

A. Complaint.

A complainant may pursue a Complaint by communicating, verbally or in writing, to the Director, Office of Diversity Programs or a Compliance Officer. The complainant shall then be assisted with the process of preparing a written Complaint for the complainant's signature.

- 1.** A Complaint may be filed by someone who alleges that he or she has personally suffered Prohibited Discrimination or by one who has learned of potential Prohibited Discrimination in his or her official capacity as a faculty member or administrator, and individuals and entities filing a complaint on behalf of another individual or class of individuals.
- 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 of Diversity Programs will provide a copy of the blank form upon request by any person.
- 3.** If the Compliance Officer or the Director, Office of Diversity Programs receives a Complaint that does not comply with the provisions of this section, the Compliance Officer or the Director, Office of Diversity Programs, shall immediately notify the complainant of the reason that the complaint is deemed defective.

B. Alternative Filing.

- 1.** At the complainant's option, a Complaint may also be made directly to the Director, Office of Diversity Programs or the Deputy Chancellor.
- 2.** As a further alternative, the complainant may also submit his or her written Complaint directly to the State Chancellor's Office of the California Community Colleges

C. Timeliness.

The Complaint shall be filed no later than one year from the date when the complainant knew or reasonably should have known of the facts underlying the Complaint. The Compliance Officer shall advise a complainant that he or she must file a non-employment based complaint with the Office of Civil Rights of the 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 shall be filed with the Department of Fair Employment and Housing. All complaints must be filed within one year of the date the potential unlawful discrimination.

D. Notification to complainant in employment cases.

The Compliance Officer shall advise the complainant that he or she may also file a complaint with the Equal Employment Opportunity Commission or the Department of Fair Employment and Housing.

E. 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 of Diversity Programs, with a copy to the College President at his or her college, or, at the District Office, the Deputy Chancellor. The Compliance Officer shall also provide a written report on the status of the investigation.

F. Notification to Alleged Offender.

Also within five (5) business days after receiving Complaint, or, for good cause, as soon thereafter as is practical, a Compliance Officer shall provide a summary of the Complaint to the alleged offender. The Compliance Officer will ensure that personal information about the complainant and other individuals who may be mentioned in the complaint is not unnecessarily disclosed to the alleged offender.

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15015. COMPLIANCE OFFICER'S REPORT.

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 District Office, the Deputy Chancellor. A copy of the report shall be sent to the Director of Diversity Programs.

A. The report shall include, without limitation, the following:

- 1.** A description of the circumstances giving rise to the complaint;

- 2.** A summary of the testimony provided by each witness, including without limitation, the complainant, the alleged offender and any witnesses identified by the complainant or alleged offender;
 - 3.** An analysis of any relevant data or other evidence collected during the course of the investigation;
 - 4.** A recommendation regarding the findings; and
 - 5.** Any other appropriate information.
- B.** If the allegations implicate a College President, the report shall be made to the Chancellor. If the allegations implicate the Deputy Chancellor, 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, Office of Diversity Programs, the Complaint shall be referred to the Deputy Chancellor, who shall appoint a third party to investigate and who shall perform the duties of the Director, Office of Diversity Programs in carrying out this policy.
- C.** A summary of the report shall be provided to the complainant and to the alleged victim, if different, as well as to the alleged offender. 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 complainant, alleged victim or alleged offender except as required by legal process.
- D.** The alleged offender and the alleged victim shall have the right to make an oral statement to the College President or for employees at the District Office, 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.

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Amended 06-13-07
Amended 11-05-14

15016. DECISION.

- A.** The College President or, at the District Office, the Deputy Chancellor who has received the CO's investigative report, shall independently assess whether the investigation shows that there is a preponderance of the evidence establishing that a violation of this policy has occurred and shall determine what disciplinary action is to be taken, if any. A

"preponderance of the evidence" shall mean that it is more likely than not that a violation has occurred. In cases establishing that a violation of this policy occurred, interim and final remedies will be provided to the complainant where need to end the discrimination, prevent it from recurring and eliminate the effects of the discrimination on the victim.

- B.** The College President, or the Deputy Chancellor shall mail by certified mail, return receipt requested, to the complainant, the alleged victim (if different), and the alleged offender, the Written Decision, pursuant to subsection "D" below, and their respective appeal rights. The Director of Diversity Programs shall be responsible for forwarding a copy of the Written Decision to the State Chancellor's Office as required by Title 5, Section 59336.
- C.** In the event the allegations implicate the Chancellor, the report shall be presented by the Deputy Chancellor to the Board of Trustees in closed session at a meeting within thirty (30) days from receipt of the Compliance Officer's report, or at the first regular Board of Trustees meeting following expiration of the thirty (30) day period. The Board of Trustees shall determine whether the investigation shows that there is a preponderance of the evidence establishing that a violation of this policy has occurred and the disciplinary action that is to be taken, if any. A "preponderance of the evidence" shall mean that it is more likely than not that a violation has occurred. The Deputy Chancellor shall prepare the Written Decision, pursuant to subsection "D" below, to be signed by the President of the Board of Trustees.
- D.** Written Decision. Pursuant to Title 5 Section 59336, the Written Decision shall be made within ninety (90) days from the start of the investigation, and shall include the following:
 - 1.** The determination by the College President or Deputy Chancellor whether there is probable cause to believe discrimination occurred with respect to each allegation in the Complaint;
 - 2.** The proposed resolution of the Complaint and action to be taken to prevent similar problems in the future, if appropriate; and
 - 3.** The following statement:

"Please note that the complainant has 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 complainant has 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, 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.

- E.** If the Complaint implicates the Chancellor, and does not arise from or relate to employment, the report shall include (D)(1) and (2), above, and the following statement:

"The complainant has 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."

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 the Written Decision shall be placed in a sealed envelope in the personnel file of any employee involved as an alleged offender, complainant or alleged victim. The employee has a right to submit a response to the Written Decision, which will also be placed in the employee's personnel file.
- G.** If the Written Decision cannot be issued in accordance with the timeline in (D), the College President shall work with the Director of Diversity Programs to request an extension from the State Chancellor's Office.

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15017. DISCIPLINARY ACTION.

- A.** When a determination has been made that disciplinary action is to be taken, the College President or, at the District Office, 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. 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 District Office, the Deputy Chancellor or the Chancellor. A copy of the report shall also be filed with the Office of Diversity Programs.

- B.** Disciplinary actions, if any, shall be pursued in accordance with the alleged offender'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.
- C.** Students. Disciplinary action against students shall include, without limitation, verbal warnings, probation, suspension or expulsion.
- D.** Employees. Disciplinary action against employees shall include, without limitation, verbal warnings, letters of reprimand, Notices of Unsatisfactory Service, suspensions, demotions or dismissals.
- E.** An alleged offender's due process rights shall generally require the production of a full copy of the Compliance Officer's report at the time the alleged offender 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.

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15018. APPEALS.

- A.** Appeals by the complainant and/or alleged victim.
 - 1.** For complaints implicating anyone other than the Chancellor, if the complainant 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 of the Written Decision. 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.** 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.

C. Appeals by the alleged offender.

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.

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Amended 11-05-14

15019. ADDITIONAL REMEDIES.

A complainant 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, the Equal Employment Opportunity Commission or the Office for Civil Rights, United States Department of Education, whichever is the appropriate agency, whether or not he or she chooses to utilize the District's internal complaint procedures described in this Chapter. Anyone who believes he or she has been a victim of unlawful discrimination 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.

Adopted 02-22-95
Amended 06-13-07

15020. TIMELINES.

- A.** Time limits under this policy will not be extended or waived by the unavailability of a designated representative.
- B.** If a Compliance Officer or administrator becomes aware that an investigation or Decision cannot be completed within the time frames specified, he or she shall immediately notify the Director of Diversity Programs. The Director of Diversity Programs will address the matter with the State Chancellor's Office as necessary to obtain the extension if warranted.

Adopted 06-13-07
Amended 11-05-14

15021. SETTLEMENT.

- A.** At any time within this process, there may be a settlement. To the extent that the settlement involves the commitment of

any District resources, a settlement must be approved by the appropriate level of authority within the District.

- B.** Settlement Agreement. If a settlement is reached after a Formal Complaint has been filed, the Compliance Officer shall draft a settlement agreement to be signed by the alleged victim, the complainant (if different from the alleged victim), the alleged offender and the College President or Deputy Chancellor. Although the alleged offender's willingness to participate in a settlement may be a factor in determining whether to pursue discipline, the settlement agreement will not preclude disciplinary action against an alleged offender. 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 Office of Diversity Programs and cross-referenced by the names of all parties involved.
- C.** A copy of any settlement shall be placed in the personnel file of each employee involved as an alleged offender, alleged victim or complainant. Any employee shall be allowed to respond by putting a written response in his or her personnel file. No action based on an investigation or Complaint shall be taken that affects the status of an employee unless a settlement or written Decision of an investigation has been placed in the employee's personnel file.

Adopted 06-13-07

Amended 11-05-14

15022. CONFLICTS OF INTEREST.

- A.** A Compliance Officer shall not be the investigator into any situation in which the Compliance Officer was a witness or other material participant. A Compliance Officer shall not be the investigator into any allegations made against the person to whom he or she reports.
- B.** The Chancellor or the Chancellor's designee is authorized to identify alternative investigators, administrative decision-makers or other staffing as needed in the event it is appropriate to avoid a conflict of interest not otherwise addressed by this policy.

Adopted 06-13-07