

**Equal Employment Opportunity Fund *Multiple Method* Allocation Model
Certification Form, Fiscal Year 2015-16**

District Name: Chabot-Las Positas CCD

The district met Multiple Method #1 (District's EEO Advisory Committee and EEO Plan).

- Yes
 No

The district met at least 5 of the remaining 8 Multiple Methods? (Please mark your answers.)


Yes

- Method 2 (Board policies and adopted resolutions)
- Method 3 (Incentives for hard-to-hire areas/disciplines)
- Method 4 (Focused outreach and publications)
- Method 5 (Procedures for addressing diversity throughout hiring steps and levels)
- Method 6 (Consistent and ongoing training for hiring committees)
- Method 7 (Professional development focused on diversity)
- Method 8 (Diversity incorporated into criteria for employee evaluation and tenure review)
- Method 9 (Grow-Your-Own programs)

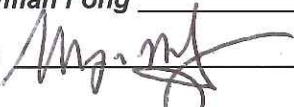
No

I CERTIFY THAT THIS REPORT FORM IS COMPLETE AND ACCURATE. Please attach meeting agenda of when District's EEO Advisory Committee certified this report form.


Chair, Equal Employment Opportunity Advisory Committee.

Name: David Betts Title: Director, Employee and Labor Relations
Signature:  Date: 6/1/16

Chief Human Resources Officer

Name: Wyman Fong Title: Vice Chancellor, Human Resources
Signature:  Date: 6/1/16

Chief Executive Officer (Chancellor or President/Superintendent)

Name: Dr. Jannett N. Jackson Title: Chancellor
Signature:  Date: 6-1-16

President/Chair, District Board of Trustees

Date of governing board's approval/certification: June 21, 2016

Name: Carlo Vecchiarelli Title: President/Chair, Board of Trustees
Signature: (Upon Approval) _____ Date: _____

Date Due at the Chancellor's Office: June 1, 2016

Return to: Javier Gonzalez (jgonzalez@ccccc.edu)

Chancellor's Office California Community Colleges: 1102 Q Street, Ste. 4500, Sacramento, CA 95811

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This form requires districts to report the various activities that they are implementing to promote Equal Employment Opportunity for each of the 9 *Multiple Methods*. The Chancellor's Office will select some of the practices reported and highlight them in an "EEO and Diversity Best Practices Handbook".

When providing explanation(s) and evidence of your district's success in implementing the *Multiple Methods*, please write a response suitable for publication in the best-practices handbook. Please keep narrative to no more than one page per Multiple Method.

Nine (9) Multiple Methods

Pre-Hiring

1. District's EEO Advisory Committee and EEO Plan
2. Board policies & adopted resolutions
3. Incentives for hard-to-hire areas/disciplines
4. Focused outreach and publications

Hiring

5. Procedures for addressing diversity throughout hiring steps and levels
6. Consistent and ongoing training for hiring committees

Post-Hiring

7. Professional development focused on diversity
8. Diversity incorporated into criteria for employee evaluation and tenure review
9. Grow-Your-Own programs

Does district meet Multiple Method #1 (District's EEO Advisory Committee and EEO Plan)?

€ Yes

€ No

Under the *Multiple Method* allocation model, districts must minimally have an operational District EEO Advisory Committee and an updated EEO Plan.

- In order to qualify for receipt of the EEO Fund, districts are required to submit a board-adopted EEO plan every three years to the Chancellor's Office. (Title 5, Section 53003).
- EEO Plans are considered active for three years from the date of when the District's Board of Trustees approved the plan.
- The districts are required to establish an EEO Advisory Committee to assist in the development and implementation of the EEO Plan. (Title 5, Section 53005).

Please provide an explanation and evidence of meeting this Multiple Method, #1.

The Chabot-Las Positas Community College District has a current EEO Plan. It was adopted by the Board of Trustees at its meeting on May 17, 2016. A copy of the plan is included as Attachment #1.

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To receive funding for that year's allocation amount, districts are also required to meet 5 of the remaining 8 Multiple Methods.

Does the District meet Method #2 (Board policies and adopted resolutions)?

- Yes**
 No

Please provide an explanation and evidence of meeting this Multiple Method, #2.

Board Policy 3420, Equal Employment Opportunity, was adopted by the Board on June 16, 2015. It is included as Attachment #2. Related Board Policies and Administrative Procedures are attached:

- BP 3410 – Nondiscrimination (Attachment #3)
- AP 3410 – Nondiscrimination (Attachment #4)
- BP 3430 – Prohibition of Harassment (Attachment #5)
- AP 3430 – Prohibition of Harassment (Attachment #6)
- AP 3435 – Discrimination and Harassment Complaint Procedures (Attachment #7)

Does the District meet Method #3 (Incentives for hard-to-hire areas/disciplines)?

- Yes**
 No

Does the District meet Method #4 (Focused outreach and publications)?

- Yes**
 No

Please provide an explanation and evidence of meeting this Multiple Method, #4.

The District advertises in a wide variety of publications in order to attract fully qualified candidates from diverse backgrounds. Those publications include DiverseEducation.com, Governmentjobs.com, Dice.com, the California Community Colleges Job Registry, edjoin.org, Chroniclevitae.com, ACCCA.org, HigherEdJobs.com, cccsfaaa.org, collegenursingjobs.com, and craigslist.org.

The Office of Human Resources also participated in the most recent CCC Registry Job Fair in San Francisco, which attracts a diverse candidates from throughout the Bay Area.

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Does the District meet Method #5 (Procedures for addressing diversity throughout hiring steps and levels)?

- Yes**
 No

Please provide an explanation and evidence of meeting this Multiple Method, #5.

EEO Plan Component 12 (Methods to Address Underrepresentation), subsections 3 (Review of Initial and Qualified Applicant Pools) and 4 (Screening/Selection Committee Procedures) outline in explicit detail the procedures for addressing diversity throughout hiring Steps and Levels. See Attachment #1.

Does the District meet Method #6 (Consistent and ongoing training for hiring committees)?

- Yes**
 No

Please provide an explanation and evidence of meeting this Multiple Method, #6.

For many years, the District has required anyone who participates in a hiring committee to receive training. The current EEO Plan requires anyone serving on a hiring committee to have completed the training within the last 24 months, similar to the requirement for supervisor's training on the Prevention of Harassment and Discrimination. (See EEO Plan Component 8)

Recently, the Office of Human Resources established a location in the Banner system to maintain a permanent and ongoing record of when every employee last received the training.

A copy of the current training is included as Attachment #8.

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Does the District meet Method #7 (Professional development focused on diversity)?

- Yes**
 No

Please provide an explanation and evidence of meeting this Multiple Method, #7.

The District provides regular training to all managers and supervisors throughout the District on the Prevention of Harassment and Discrimination in the workplace. They are required to participate in this training at least every 2 years. A major element of this training is education on equal employment opportunity. This training is the required AB 1825 training. In addition, HR provides training, on request, to departments wanting to provide training to their classified professionals on the same principles and practices covered in the AB 1825 training, but more tailored to situations among co-workers. An example of this professional development training is included as Attachment #9.

Does the District meet Method #8 (Diversity incorporated into criteria for employee evaluation and tenure review)?

- Yes**
 No

Does the District meet Method #9 (Grow-Your-Own programs)?

- Yes**
 No

Please provide an explanation and evidence of meeting this Multiple Method, #9.

The Chancellor and Classified Professionals in the Chabot-Las Positas Community College District recently instituted a "Grow-Your-Own" program called CLIP (Classified Leadership Institute for Professionals).

The Classified Professional population in the District is diverse. Creating a formal leadership program collaboratively with the Classified Professionals focused on providing professional skills, educational knowledge, and personal growth that supports the goals of our educational community, we believe, is a positive step that will increase the diversity of the leadership throughout the District.

A copy of a presentation to the Board of Trustees on April 19, 2016, is included as Attachment #10.



EQUAL EMPLOYMENT OPPORTUNITY PLAN

(Adopted by Board of Trustees on May 17, 2016)

CHABOT – LAS POSITAS COMMUNITY COLLEGE DISTRICT
7600 Dublin Boulevard, 3rd Floor
Dublin, CA 94568

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Plan Component 1: Introduction

The Chabot-Las Positas Community College District Equal Employment Opportunity Plan (*Plan*) was adopted by the governing board on May 17, 2016,, and reflects the district's commitment to equal employment opportunity. It is the district's belief that taking active and vigorous steps to ensure equal employment opportunity creates a working and academic environment which is welcoming to all, and will foster diversity and promote excellence.

The *Plan's* immediate focus is equal employment opportunity in recruitment and hiring policies and practices pursuant to the applicable title 5 regulations (section 53000 et seq.). The *Plan* includes the requirements for a complaint procedure for noncompliance with the title 5 provisions relating to equal employment opportunity programs; establishment of an Equal Employment Opportunity Advisory Committee; methods to support equal employment opportunity and an environment which is welcoming to all; as well as procedures for dissemination of the *Plan*. It is our intent to review the *Plan* at least every three years in support of these goals.

The District is committed to employing qualified administrators, faculty, and classified professionals who are dedicated to student success and the District's mission, vision, and values, recognizing that equal employment opportunity and diversity in the academic environment fosters cultural awareness, promotes mutual understanding and respect, and provides suitable role models for students. Through an educational experience in an inclusive environment, our students will be better prepared to work, live, and succeed in an increasingly global society.

Jannett N. Jackson, Ph.D.
Chancellor
Chabot-Las Positas Community College District

Plan Component 2: Definitions

- a) *Adverse Impact*: a statistical measure (such as those outlined in the EEO Commission's *Uniform Guidelines on Employee Selection Procedures*) that is applied to the effects of a selection procedure and demonstrates a disproportionate negative impact on any group defined in terms of ethnic group identification, gender, or disability. A disparity identified in a given selection process will not be considered to constitute adverse impact if the numbers involved are too small to permit a meaningful comparison.

- b) *Business Necessity*: circumstances which justify an exception to the requirements of section 53021(b)(1) because compliance with that section would result in substantial additional financial cost to the district or pose a significant threat to human life or safety. Business necessity requires greater financial cost than mere business convenience. Business necessity does not exist where there is an alternative that will serve business needs equally well.

- c) *Diversity*: means a condition of broad inclusion in an employment environment that offers equality and respect for all persons. It requires both the presence and respectful treatment of individuals from a wide range of race, gender, gender identity, ethnic, belief, age, national origin, sexual orientation, disability and socio-economic backgrounds, and other enriching characteristics. Diverse workplaces include qualified individuals from groups that have been historically excluded from that workplace.

- d) *Equal Employment Opportunity (EEO)*: means that all qualified individuals have a full and fair opportunity to compete for hiring and promotion and to enjoy the benefits of employment with the district. Equal employment opportunity should exist at all levels in the seven job categories listed in Title 5, which include executive/administrative/managerial, faculty and other instructional staff, professional nonfaculty, secretarial/clerical, technical and paraprofessional, skilled crafts, and service and maintenance. Ensuring equal employment opportunity also involves:
 - 1) identifying and eliminating barriers to employment that are not job related; and
 - 2) creating an environment that fosters cooperation, acceptance, democracy, and free expression of ideas and is welcoming to men and women, persons with disabilities, and individuals from all ethnic and other groups protected from discrimination by Government Code section 12940.

- e) *Equal Employment Opportunity Plan*: a written document in which a district's workforce is analyzed and specific plans and procedures are set forth for ensuring equal employment opportunity.

- f) *Equal Employment Opportunity Programs*: all the various methods by which equal employment opportunity is ensured. Such methods include, but are not limited to, using nondiscriminatory employment practices, actively recruiting, monitoring and taking additional steps consistent with Title 5 regulations and this plan.
- g)
- (1) *Ethnic Minorities*: American Indians or Alaskan natives (Native Americans), Asians, Pacific Islanders, Blacks/African-Americans, and Hispanics/Latinos.
 - (2) *Ethnic Group Identification*: means an individual's identification in one or more of the ethnic groups reported to the Chancellor pursuant to Title 5, section 53004. These groups shall be more specifically defined by the Chancellor consistent with state and federal law.
- h) *Goals for Persons with Disabilities*: a statement that the district will strive to attract and hire additional qualified persons with disabilities, consistent with its commitment to promoting equal employment opportunity and diversity at all levels of the workforce. To the extent Title 5 sets forth specific obligations to foster the representation of qualified disabled individuals in the workplace, "goals for person with disabilities" also means a statement in compliance with those obligations. The term "goals" does not refer to "quotas" or rigid proportions.
- (1) *Target Date*: a point in time by which the district plans to meet an established goal for persons with disabilities and thereby achieve projected representation in a particular job category.
 - (2) *Timetable*: a set of specific annual hiring objectives that will lead to meeting a goal for persons with a disability by a projected target date.
- i) *In-house Hiring*: refer to Title 5 Section 53021.
- j) *Monitored Group*: means those groups identified in section 53004(b) for which monitoring and reporting is required pursuant to section 53004(a).
- k) *Person with a Disability*: any person who (1) has a physical or mental impairment as defined in Government Code, section 12926 which limits one or more of such person's major life activities, (2) has a record of such an impairment, or (3) is regarded as having such an impairment. A person with a disability is

“limited” if the condition makes the achievement of the major life activity difficult.

- l) *Projected Representation*: the percentage of persons from a monitored group determined by the Chancellor to be available and qualified to perform the work in question. In the absence of a determination by the Chancellor, projected representation is given no alternate meaning or application in this plan.
- m) *Reasonable Accommodation*: the efforts made on the part of the district to allow disabled applicants to access the job application process and allow disabled employees to perform the essential functions of their positions, consistent with the District's legal obligations under the Americans with Disabilities Act and the California Fair Employment and Housing Act. “Reasonable accommodations” may include the items designated in Title 5, section 53025.
- n) *Screening or Selection Procedures*: any measure, combination of measures, or procedures used as a basis for any employment decision. Selection procedures include the full range of assessment techniques, including but not limited to traditional paper and pencil tests, performance tests, and physical, educational, and work experience requirements, interviews, and review of application forms.
- o) *Significantly Underrepresented Group*: any monitored group for which the percentage of persons from that group employed by the district in any job category listed in section 53004(a) is below eighty percent (80%) of the projected representation for that group in the job category in question.

Plan Component 3: Policy Statement

The Board supports the intent set forth by the California Legislature to assure that effort is made to build a community in which opportunity is equalized, and community colleges foster a climate of acceptance, with the inclusion of faculty and staff from a wide variety of backgrounds. It agrees that diversity in the academic environment fosters cultural awareness, mutual understanding, harmony, respect, and suitable role models for all students. The Board therefore commits itself to continuing good faith efforts to promote the total realization of equal employment through an ongoing equal employment opportunity program.

Plan Component 4: Delegation of Responsibility, Authority and Compliance

It is the goal of the Chabot-Las Positas Community College District (the District) that all employees promote and support equal employment opportunity because equal employment opportunity requires a commitment and a contribution from every segment of the District. The general responsibilities for the prompt and effective implementation of this *Plan* are set forth below.

1. *Board of Trustees*

The Board of Trustees is ultimately responsible for proper implementation of the District's *Plan* at all levels of District operation, and for ensuring equal employment opportunity as described in the *Plan*.

2. *Chancellor*

The Board of Trustees delegates to the Chancellor the responsibility for ongoing implementation of the *Plan* and for providing leadership in managing the District's resources to ensure implementation of the District's equal employment opportunity policies and procedures. The Chancellor shall advise the Board of Trustees concerning statewide policy emanating from the Board of Governors of the California Community Colleges and direct the publication of an annual report on *Plan* implementation. The Chancellor shall evaluate the performance of all administrative staff who report directly to him/her on their ability to follow and implement the *Plan*.

3. *Equal Employment Opportunity Officer*

The District has designated the Vice Chancellor of Human Resources as its EEO Officer who is responsible for the day-to-day implementation of the *Plan*. If the designation of the EEO Officer changes before this *Plan* is next revised, the District will notify employees and applicants for employment of the new designee. The EEO Officer is responsible for administering, implementing and monitoring the *Plan* and for assuring compliance with the requirements of Title 5, sections 53000 et seq. The EEO Officer is also responsible for receiving complaints described in Plan Component 6 and for ensuring that applicant pools and selection procedures are properly monitored.

4. *Equal Employment Opportunity Advisory Committee*

The District will maintain an Equal Employment Opportunity Advisory Committee (EEOAC) to act as an advisory body to the EEO Officer and the District as a whole to promote understanding and support of equal employment opportunity policies and procedures. The EEOAC will assist the District in the development and the implementation of the *Plan* in conformance with state and federal regulations and guidelines, monitor equal employment opportunity progress, and provide suggestions for *Plan* revisions as appropriate.

5. *Agents of the District*

Any organization or individual, whether or not an employee of the District, who acts on behalf of the Board of Trustees with regard to the recruitment and screening of personnel, is an agent of the District and is subject to all the requirements of this *Plan*.

6. *Good Faith Effort*

The District shall make a continuous good faith effort to comply with all the requirements of its *Plan*.

Plan Component 5: Advisory Committee

The District has established an Equal Employment Opportunity Advisory Committee (EEOAC) to assist the District in implementing its *Plan*.

The committee may also assist in promoting an understanding and support of equal opportunity and nondiscrimination policies and procedures. The EEOAC may sponsor events, trainings, or other activities that promote equal employment opportunity, nondiscrimination, retention and diversity. The EEO Officer or designee shall train the advisory committee on equal employment compliance and the *Plan* itself.

The committee shall include a diverse membership whenever possible. A substantial good faith effort, to the extent permitted by law, will be made to maintain a diverse membership. If the District has been unable to meet this requirement, it will document the efforts made to foster diversity on the EEOAC. The committee shall meet, at a minimum, at least once in the Fall and Spring terms.

The EEOAC shall include the following ex officio members: Vice Chancellor of Human Resources, and the Director, Employee and Labor Relations. A request shall be made for one appointment to the committee from each of the following constituencies: each campus' Academic Senate, each site's Classified Senate, each campus' Associated Students, the Faculty Association, and SEIU. There will also be an appointment of one administrator from each campus. At the Chancellor's option, a community member may also be appointed to the committee.

Plan Component 6: Complaints

Complaints Alleging Violation of the Equal Employment Opportunity Regulations (Title 5, Section 53026).

The District has established the following process permitting any person to file a complaint alleging that the requirements of the EEO regulations have been violated. Any person who believes that the EEO regulations have been violated has a right to file a written complaint describing in detail the alleged violation. All complaints shall be signed and dated by the complainant and shall contain, to the best of the complainant's ability, the names of the individuals involved, the date(s) of the event(s) at issue, and a detailed description of the actions constituting the alleged violation. Complaints involving current hiring processes must be filed as soon as possible after the occurrence of an alleged violation and not later than sixty (60) days after such occurrence unless the complainant can verify a compelling reason for the District to waive the sixty (60) day limitation.

Complaints alleging violations of the *Plan* that do not involve current hiring processes must be filed as soon as possible after the occurrence of an alleged violation and not later than ninety (90) days after such occurrence unless the violation is ongoing. A complainant may not appeal the District's determination pursuant to section 53026 to the State Chancellor's Office, but under some circumstances, violations of the EEO regulations in Title 5 may constitute a violation of a minimum condition for receipt of state aid. In such a case, a complaint can be filed with the State Chancellor's Office, but the complainant will be required to demonstrate that he/she made previous reasonable, but unsuccessful, efforts to resolve the alleged violation at the college and/or district level using the process provided by section 53026.

The District may return without action any complaints that are inadequate because they do not state a clear violation of the EEO regulations. All returned complaints must include a District statement of the reason for returning the complaint without action.

The complaint shall be filed with the Vice Chancellor of Human Resources or designee. If the complaint involves the Vice Chancellor of Human Resources, the complaint may be filed with the Chancellor. To the extent practicable, a written determination on all accepted written complaints will be issued to the complainant within ninety (90) days of the filing of the complaint. The Vice Chancellor of Human Resources or designee will forward copies of all written complaints to the State Chancellor's Office upon receipt.

In the event that a complaint filed under section 53026 alleges unlawful discrimination, it will be processed according to the requirements of section 59300 et seq.

Complaints Alleging Unlawful Discrimination or Harassment (Title 5, Section 59300 et seq.)

The District has adopted procedures for complaints alleging unlawful discrimination or harassment and those procedures are contained in Administrative Procedure 3435.

The Vice Chancellor of Human Resources or designee is responsible for receiving such complaints and for coordinating their investigation. Campus complaint officers may be assigned investigation responsibilities.

The District's discrimination and sexual harassment complaint procedures are attached to this *Plan*. These procedures can also be read online at:

http://www.clpccd.org/HR/documents/AP3435DiscriminationandHarassmentComplaintProcedures7-21-15_000.pdf.

Plan Component 7: Notification to District Employees

The commitment of the Board of Trustees and the Chancellor to equal employment opportunity is emphasized through the broad dissemination of its EEO Policy Statement and the *Plan*. The policy statement will be printed in the college catalogs and class schedules. The *Plan* and subsequent revisions will be distributed to the Board of Trustees, the Chancellor, administrators, the Senate Presidents, Union Presidents, and members of the District EEOAC. The *Plan* will be available on the district's website, and when appropriate, may be distributed by email. Each year, the district office will provide all employees with access to the Board's EEO Policy Statement (located in Plan Component 3 of this *Plan*) as well as a link to reach the District's EEO Plan. The Human Resources Department will provide all new employees with information on how to access these documents when they commence their employment with the District.

The *Plan* will be available online and will emphasize the importance of the employee's participation and adherence to the *Plan*. Hard copies of the *Plan* are available at the colleges and in Human Resources.

Plan Component 8: Training for Screening/Selection Committees

Any organization or individual, whether or not an employee of the District, who is involved in the screening/selection of personnel shall receive appropriate training on the requirements of the Title 5 regulations on EEO (section 53000 et. seq.); the requirements of federal and state nondiscrimination laws; the requirements of the District's EEO Plan; the District's policies on nondiscrimination, recruitment, and hiring; principles of diversity; the value of a diverse workforce; and recognizing bias. As this training is mandatory, it is highly preferred that such training takes place in smaller settings or settings specifically designated for hiring committee training to encourage compliance and understanding. Individuals who have not received this training within the prior 24 months, or within the time period required by law or as modified by district policy or procedure, will not be allowed to serve on screening/selection committees.

The Office of Human Resources is responsible for providing the required training. Any individual, whether or not an employee of the District, acting on behalf of the District with regard to screening and selection of employees is subject to the EEO requirements of Title 5 and the District's EEO Plan.

Plan Component 9: Annual Written Notice to Community Organizations

Human Resources, working with the Director, Public Relations, Marketing, and Government Relations, will provide annual written notice to appropriate community-based and professional organizations concerning the *Plan*. The notice will inform these organizations that they may obtain a copy of the *Plan*, and shall solicit their assistance in identifying qualified candidates from diverse backgrounds. The notice will also include the internet address where the District advertises its job openings and the names, departments and phone numbers of individuals to call in order to obtain employment information. The District will actively seek to reach those institutions, organizations, and agencies that may be recruitment sources. A list of organizations, which will receive this notice, is attached to this *Plan* (under development). Annually, the EEOAC will review the list and may revise the list as necessary.

Plan Component 10: Analysis of District Workforce and Applicant Pool

The Human Resources Department shall annually assess the District's workforce composition and monitor applicants for employment on an ongoing basis to evaluate the District's progress in implementing the *Plan* and to provide data needed for the reports required by this *Plan*. Monitored groups are men, women, American Indians/Alaskan Natives, Asians or Pacific Islanders, Blacks/African-Americans, Hispanics/Latinos, Whites/Caucasians, and persons with disabilities.

For purposes of the survey and report, each applicant or employee will be afforded the opportunity to voluntarily identify gender, ethnic group identification and, if applicable, disability. Persons may designate as many ethnicities as they identify with, but shall be counted as multi-ethnic for reporting purposes. (The EEOAC requests the appropriate research be conducted by the District to determine how to update the human resource information system, as described, in compliance with the law and applicable regulations.) This information will be kept confidential and will be separated from the applications that are forwarded to the screening/selection committee and hiring administrator(s). A representative from Human Resources will annually prepare a report and present it to the EEOAC, and post this report at a to be determined location on the District website. The District will annually report to the State Chancellor the results of its annual survey of employees.

At least every three years the *Plan* will be reviewed and, if necessary, revised based on an analysis of the ethnic group identification, gender, and disability composition of existing staff and of those who have applied for employment in each of the following identified job categories:

- 1) Executive/Administrative/Managerial
- 2) Faculty and other Instructional Staff
- 3) Professional Nonfaculty
- 4) Secretarial/Clerical
- 5) Technical and Paraprofessional
- 6) Skilled Crafts
- 7) Service and Maintenance

Plan Component 12: Methods to Address Underrepresentation

The District will ensure equal employment opportunity, which involves creating an environment that fosters cooperation, acceptance, democracy, and free expression of ideas, and that is welcoming to men and women, persons with disabilities, and individuals from all ethnic and other groups that are protected from discrimination. In so doing, the District places great emphasis on the recruitment of potential applicants in order to assemble a diverse pool of qualified individuals from which to hire. With a diverse pool, the District and campus/site representatives will take steps within the screening/selection process to allow for the hiring of candidates with varied backgrounds who can contribute and effectively communicate in a diverse community. The EEO provisions below are applicable to hiring in all categories of employees.

To address any identified underrepresentation of monitored groups, the District will revise its recruitment and hiring procedures and policies in accordance with the following provisions. These provisions will be in place henceforth, whether or not underrepresentation exists, because the provisions are also valuable in ensuring equal employment opportunity. The District's Recruitment and Hiring Procedures will be revised to include in its section on recruitment the following provisions:

1) *Recruitment*

It is the policy of the District to aggressively pursue a program of verifiable recruitment that is inclusive and open to all individuals. Any organization that is involved in the recruitment of personnel shall confirm knowledge and understanding of the requirements of the Title 5 regulations on EEO (section 53000 et. seq.); the requirements of federal and state nondiscrimination laws; the requirements of the District's EEO Plan; the District's policies on nondiscrimination, recruitment, and hiring; principles of diversity; the value of a diverse workforce; and recognizing bias.

Efforts will be undertaken on a regular basis to develop and contact new recruitment sources that ensure diverse pools of candidates. Diverse pools may include, but not be limited to, men, women, trans male, trans female, non-conforming, different identity, persons with disabilities, and individuals from all ethnic and other groups protected from discrimination. All recruitment announcements will state that the District is an "Equal Employment Opportunity Employer." The District will include in the recruitment section of its Recruitment and Hiring Procedures the following provisions:

- a) Recruitment for all open positions may include, but not be limited to, placement of job announcements in the following instruments:
 - (1) General circulation newspapers, publications, both print and on-line.

- (2) Local and regional community newspapers.
 - (3) Newspapers, and publications that provide information in languages other than English and to low-income communities.
 - (4) Publications, including electronic media that are distributed to the general market and to newspapers and publications, whose primary audience is comprised of groups found to be underrepresented in the District's workforce.
 - (5) Recruitment booths at job fairs or conferences oriented to both the general market and the economically disadvantaged as well as those events drawing significant participation by groups found to be underrepresented in the District's workforce.
- b) District employees will be surveyed on a regular basis requesting resources and locations where open positions may be advertised to ensure recruitment is as inclusive and broad as possible and includes recruitment of monitored groups. Human Resources will compile, store, and update this list.

2) *Job Announcements*

The District's Recruitment and Hiring Procedures section on "Job Announcements" will be revised to include the following provisions:

Job announcements will state clearly job specifications setting forth the knowledge, skills, and abilities necessary to job performance. For all positions, job requirements will include demonstrated sensitivity to and understanding of the diverse academic, socioeconomic, cultural, disability, and ethnic backgrounds of community college students. Job specifications, including any "required," "desired," or "preferred" qualifications beyond the state minimum qualifications which the District wishes to utilize, will be reviewed by Human Resources before the position is announced, to ensure conformity with equal employment regulations and state and federal nondiscrimination laws. All job announcements shall state that the District is an "Equal Employment Opportunity Employer."

- b) For identified public contact or community liaison positions, bilingual ability in the language spoken by a significant number of students may be a preferred or desirable qualification. Before bilingual ability in the identified languages can be made a preferred or desirable qualification,

the District will conduct an analysis to confirm that the bilingual ability is appropriate for the position. The District will identify the specific positions where bilingual ability in a particular language may be listed as a preferred or desired qualification.

3) *Review of Initial and Qualified Applicant Pools*¹

Initial applicant pools will be reviewed by Human Resources (HR) for representation of monitored groups. Once the initial pool is approved and for consistency across the District, HR will screen the pool for minimum qualifications, resulting in a qualified applicant pool. The qualified applicant pool will then be reviewed so that no monitored group is adversely impacted. Once the qualified applicant pool is approved, the pool may be released in accordance with the Hiring Procedures. The District's Recruitment and Hiring Procedures will include the following provisions:

- a) The application for employment will afford each applicant an opportunity to voluntarily identify his or her gender, ethnic group and, if applicable, his or her disability.
- b) *Initial Applicant Pool:* The initial applicant pool is composed of all applications received by the application deadline. The following steps will be taken when reviewing the initial applicant pool.

Step 1: The composition of the initial applicant pool will be analyzed to ensure that any failure to obtain representation for any monitored group is not due to discriminatory recruitment procedures.

Step 2: If there is no representation of a monitored group, the application deadline may be extended so that additional recruitment can be conducted that eliminates discriminatory recruitment procedures and ensures that recruitment efforts provide a full and fair opportunity for participation to a wide diversity of potential applicants.

Step 3: When recruitment efforts have offered an opportunity for participation to a wide diversity of potential applicants or further recruitment efforts would be futile, applications will be screened to determine which candidates satisfy the minimum qualifications set forth in the job description.

- c) *Qualified Applicant Pool:* The qualified applicant pool is composed of those applicants from the initial applicant pool who satisfy the minimum

¹ See Title 5, section 53023 for general authority for this section.

qualifications set forth in the job description. Before the qualified applicant pool is forwarded to the screening/selection committee, its composition will be analyzed to ensure that no monitored group is adversely impacted. If adverse impact is found to exist, effective steps will be taken to address the adverse impact before the selection process continues. Such steps may include, but are not limited to:

Step 1: Extending the deadline and undertaking inclusive outreach efforts to ensure that members of the adversely impacted group have equal opportunity to seek employment with the District.

Step 2: Including all applicants who were screened out on the basis of any locally established qualifications beyond the state minimum qualifications which have not been specifically demonstrated to be job-related and consistent with business necessity through a process meeting the requirements of federal law.

Step 3: If the minimum qualifications stated on the job announcement are changed, the job announcement will be reposted.

Step 4: If adverse impact persists after taking **Steps 1** and **2** above, the selection process may proceed only if:

- (i) The job announcement does not require qualifications beyond the statewide minimum qualifications, or
- (ii) Locally established qualifications beyond state minimum qualifications, if any, are demonstrated to be job-related and consistent with business necessity through a process meeting the requirements of federal law and suitable alternative selection procedures to reduce the adverse impact were unavailable.

Step 5: Once the qualified applicant pool is approved, the pool will be forwarded to the screening/selection committee for paper screening, interviews, and final recommendations for hiring consideration.

- d) The District will not advertise or utilize in future hiring processes for the same position or a substantially similar position any locally established qualifications beyond state minimum qualifications that the District was unable to verify under *Step (c) 2* above unless such qualifications are so verified in advance of commencing any such future hiring process.

4) *Screening/Selection Committee Procedures*²

The District seeks to employ qualified persons with a broad range of backgrounds and abilities who have the knowledge and experience to work effectively in a diverse environment. The selection process is based on merit, and will extend to all candidates a fair, impartial examination of qualifications based on job-related criteria. The District's Recruitment and Hiring Procedures will be revised to include in its section on applicant screening by screening/selection committees the following provisions:

- a) All screening or selection techniques, including the procedure for developing interview questions, and the selection process as a whole, will be:
 - (1) Designed to ensure that, for all positions, meaningful consideration is given to the extent to which applicants demonstrate a sensitivity to and understanding of the diverse academic, socioeconomic, cultural, disability, and ethnic backgrounds of community college students;
 - (2) Based solely on job-related criteria; and
 - (3) Designed to avoid an adverse impact, and monitored by means consistent with this section to detect and address adverse impact which does occur for any monitored group.
- b) When possible, every effort will be made, within the limits allowed by federal and state law, to ensure selection/screening committees include a diverse membership, which will bring a variety of perspectives to the assessment of applicant qualifications. Selection/screening committees will be encouraged to include members from monitored groups.
- c) HR should approve the makeup of selection/screening committees. If HR does not approve a selection/screening committee for lack of diversity, it should work with those making the appointments to the committee to take necessary steps to remedy the lack of diversity.
- d) Before a person can serve on a selection/screening committee, he or she must receive training as described in Plan Component 8.
- e) Interviews must include at least one question to assess the candidate's understanding of and commitment to equal employment opportunity

² See Title 5, section 53024 for general authority for this section.

and/or his/her level of cultural proficiency in the workplace and in the academic setting.

- f) All screening materials must be approved for compliance with equal employment opportunity principles.
- g) Monitoring for adverse impact will occur at each of the following stages of the screening/selection committee process:
 - (1) After the selection/screening committee has conducted the paper screening and **prior** to contacting any of the applicants for interviews. Interviews cannot be scheduled until the applicant pool has been approved and cleared for adverse impact.
 - (2) After the applicants have been interviewed and **prior** to forwarding finalists to the hiring administrator. Finalists cannot be forwarded for hiring consideration until the applicant pool has been approved and cleared for adverse impact.
- h) If monitoring for adverse impact reveals that any selection technique or procedure has adversely impacted any monitored group, the Vice Chancellor for Human Resources or his/her designee will do the following:
 - 1) Suspend the selection process and take timely and effective steps to remedy the problem before the selection process resumes.
 - 2) When appropriate, assist the screening committee by discussing the overall composition of the applicant pool and the screening criteria or procedures, which have produced an adverse impact, provided that confidential information about individual candidates is not disclosed.
 - 3) If adverse impact results from locally established qualifications beyond state minimum qualifications that have not been verified as job-related and consistent with business necessity, the use of such locally established qualifications will be immediately discontinued and any applicants eliminated on the basis of such qualifications will be placed back in the pool and continue to be considered during the hiring process.
 - 4) Where necessary, the position may be reopened at any time and a new selection process initiated in a way designed to avoid adverse impact.

- i) The District will not designate or set aside particular positions to be filled by members of any group defined in terms of ethnic group identification, race, color, ancestry, national origin, age, sex, religion, sexual orientation, marital status, disability, or medical condition, or engage in any other practice, which would result in discriminatory or preferential treatment prohibited by state or federal law. The District will not apply the *Plan* in a rigid manner such that the application of the *Plan* results in discrimination.
- j) The District will review all of its current and future job specifications to ensure that years of experience are taken into consideration only to the extent it is job-related, is not the sole criterion, and is included in the job announcement consistent with the requirements of Plan Component 12, section 2) a) (see Title 5, §§ 53022 and 53024(d)).

The use of years of experience will be assessed for adverse impact in each selection process where it is taken into account. If adverse impact results from the use of years of experience as a job-related factor, the process will continue only if applicants who were eliminated by the use of years of experience considerations are placed back in the pool and continue to be considered during the hiring process.

- k) Selection testing for employees will follow procedures as outlined in the Equal Employment Opportunity Commission's *Uniform Guidelines on Employee Selection Procedures*.
- l) After the Chancellor's review, the governing board shall make all final hiring decisions based upon careful review of the candidate or candidates recommended through the screening/selection committee. This includes the right to reject all candidates and to order further review or to reopen the position where necessary to achieve the objectives of the *Plan* or to ensure equal employment opportunity.
- m) The District will review the pattern of its hiring decisions over time, and if it determines that those patterns do not meet the objectives of the *Plan*, the District will request the EEOAC to recommend new methods to meet the *Plan* objectives, or if necessary, to modify the *Plan* itself to ensure equal employment opportunity.

Plan Component 14: Other Measures Necessary to Further Equal Employment Opportunity

The Board recognizes that multiple approaches are appropriate to fulfill its mission of ensuring equal employment opportunity, the development of a diverse workforce, and the creation of an inclusive, equitable and fair working and learning environment. Equal employment opportunity means that all qualified individuals have a full and fair opportunity to compete for hiring and promotion and to enjoy the benefits of employment with the District. Equal employment opportunity should exist at all levels and in all job categories. Ensuring EEO also involves creating an environment that fosters cooperation, acceptance, and free expression of ideas and is welcoming to men, women, trans male, trans female, non-conforming, different identity, persons with disabilities, and individuals from all protected classes.

Each site shall take tangible steps to promote equal employment opportunity, workplace diversity and an inclusive work environment. The District, in consultation with the EEOAC, shall also take concrete steps to monitor progress in these areas. These concrete steps may include any of the examples listed below, or other measures as identified and developed by the EEOAC in close consultation with the Vice Chancellor of Human Resources or designee:

- (a) Ensure that top administrative staff at each site understand and support diversity objectives and that the diversity and/or EEO Officer position is maintained as a cabinet or other high-level administrative position;
 - i. Explore the feasibility of the establishment of an office for equity and diversity at each campus.
- (b) Conduct surveys of campus climate on at least a biennial basis, and implement concrete measures that utilize the information drawn from the surveys;
- (c) Conduct exit interviews with employees who voluntarily leave the District, maintain a database of exit interviews, analyze the data for patterns impacting particular monitored groups, and implement concrete measures that utilize this information. Interviews may be conducted in a variety of ways, including in-person or telephone interviews, mailed or email surveys, or online surveys;
- (d) Conduct annual longitudinal analysis of hiring statistics, analyze the data for patterns impacting particular monitored groups, and implement concrete measures that utilize this information;
- (e) Maintain a variety of programs to support newly-hired and current employees such as mentoring, professional development, and leadership opportunities;
- (f) Encourage administrators and senior faculty/classified professionals to serve as mentors. Encourage faculty, classified professionals, and administrators to seek out mentors;
- (g) Include guest speakers from underrepresented groups who are in leadership positions and who may inspire students and employees alike;

- (h) Conduct dialogues, forums, and cross-cultural workshops on diversity, and prevention of harassment and discrimination;
- (i) Recognize and value staff and faculty who have promoted diversity and equal employment opportunity principles by awarding a yearly diversity recognition award;
- (j) Collaborate with the college Staff Development committees to integrate EEO/diversity workshops at instructional improvement days (flex week or staff development day);
- (k) Convey the District's diversity and commitment to equal employment opportunity in District publications and on the District website. Establish an "Equal Employment Opportunity and Diversity" online presence by highlighting the District's diversity and equal employment opportunity, ADA, sexual harassment and nondiscrimination policies, procedures and programs on the District's website. The website will also list contact persons for further information on all of these topics. Review and revise college/district publications and other marketing tools to reflect diversity in pictures, graphics, and text to project an inclusive image;
- (l) Establish a *Community Outreach Advisory Council* to involve community-based organizations in the recruitment and other equal employment opportunity efforts of the college. Recommended membership will include representatives from local business and industry as well as from diverse community groups such as MALDEF, NAACP, Chamber of Commerce, and City Council(s);

Review and update hiring procedures for all categories of employment at least every 5 years.

Plan Component 16: Graduate Assumption Program of Loans for Education

The District will take into account system-wide strategies developed by the Board of Governors to encourage community college students to become qualified for, and seek employment as community college employees. The District will consider strategies to inform students about the opportunity to participate in the Graduate Assumption of Loans Program for Education when that program is funded and available.

Plan Component 17: Progress in Achieving Full-Time to Part-Time Faculty Ratio

The District will continue to make progress toward achieving the goal of having 75% of instruction taught by full-time faculty as described in Education Code section 87482.6. Required progress is monitored annually through analysis and reporting required by Title 5, section 51025. The District will monitor employment of part-time faculty in the categories of men, women, ethnic group identification, and disability to ensure that its employment practices are equitable and fair.

General Institution

BP 3420 EQUAL EMPLOYMENT OPPORTUNITY

References:

Education Code Sections 87100 et seq.;
Title 5 Sections 53000 et seq.

The Board supports the intent set forth by the California Legislature to assure that effort is made to build a community in which opportunity is equalized, and community colleges foster a climate of acceptance, with the inclusion of faculty and staff from a wide variety of backgrounds. It agrees that diversity in the academic environment fosters cultural awareness, mutual understanding, harmony and respect, and suitable role models for all students. The Board therefore commits itself to promote the total realization of equal employment through a continuing equal employment opportunity program.

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

Date Adopted: June 16, 2015

(This is a new policy recommended by the Policy and Procedure Service.)

General Institution

BP 3410 NONDISCRIMINATION

References:

Education Code Sections 66250 et seq., 72010 et seq., and 87100 et seq.;;
Title 5 Sections 53000 et seq. and 59300 et seq.;;
Penal Code Section 422.55;
Government Code Sections 12926.1 and 12940 et seq.;;
Accreditation Standard II.B.2.c

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

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

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

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

Date Adopted: June 16, 2015

(This new policy replaces current CLPCCD Policies 4029, 5516, AND 5518)

General Institution

AP 3410 NONDISCRIMINATION

References:

Education Programs

Education Code Sections 66250 et seq., 200 et seq., and 72010 et seq.;

Penal Code Sections 422.55 et seq.;

Title 5 Sections 59300 et seq.;

Accreditation Standard II.B.2.c

Employment

Education Code Sections 87100 et seq.;

Title 5 Sections 53000 et seq.;

Government Code Sections 11135 et seq. and 12940 et seq.

Education Programs

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

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

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

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

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

Employment

The District shall provide equal employment opportunities to all applicants and employees regardless of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or status as a Vietnam-era veteran.

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

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

The procedure for the investigation and resolution of complaints of discrimination by or against any staff or faculty member within the District is set forth in AP 3435 (Discrimination and Harassment Complaint Procedures). Depending on the circumstances, the procedure for the investigation and resolution of complaints against students is set forth in either AP 3435 or AP 5530 (Student Rights and Grievances),

Date Adopted: May 19, 2015

(Replaces CLPCCD Administrative Rules and Procedures 4029 and 5516.)

General Institution

BP 3430 PROHIBITION OF HARASSMENT

References:

Education Code Sections 212.5, 44100, 66252, and 66281.5;
Government Code Section 12950.1;
Title VII of the Civil Rights Act of 1964, 42 U.S. Code Annotated Section 2000e;
Title 5 Sections 59300 et seq.

All forms of harassment are contrary to basic standards of conduct between individuals and are prohibited by state and federal law, as well as this policy, and will not be tolerated. The District is committed to providing an academic and work environment that respects the dignity of individuals and groups. The District shall be free of sexual harassment and all forms of sexual intimidation and exploitation including acts of sexual violence. It shall also be free of other unlawful harassment, including that which is based on any of the following statuses: race, ethnicity, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, or sexual orientation of any person, or because he or she is perceived to have one or more of the foregoing characteristics.

The District seeks to foster an environment in which all employees and students feel free to report incidents of harassment without fear of retaliation or reprisal. Therefore, the District also strictly prohibits retaliation against any individual for filing a complaint of harassment or for participating in a harassment investigation. Such conduct is illegal and constitutes a violation of this policy. All allegations of retaliation will be swiftly and thoroughly investigated. If the District determines that retaliation has occurred, it will take all reasonable steps within its power to stop such conduct. Individuals who engage in retaliatory conduct are subject to disciplinary action, up to and including termination or expulsion.

Any student or employee who believes that he/she has been harassed or retaliated against in violation of this policy should immediately report such incidents by following the procedures described in AP 3435 titled Discrimination and Harassment Complaint Procedures. Supervisors are mandated to report all incidents of harassment and retaliation that come to their attention.

This policy applies to all aspects of the academic environment, including but not limited to classroom conditions, grades, academic standing, employment opportunities, scholarships, recommendations, disciplinary actions, and participation in any community

General Institution

AP 3430 PROHIBITION OF HARASSMENT

References:

Education Code Sections 212.5; 44100; 66281.5;
Title IX, Education Amendments of 1972; Title 5, Sections 59320 et seq.;
Title VII of the Civil Rights Act of 1964, 42 U.S.C.A. Section 2000e

The District is committed to providing an academic and work environment free of unlawful harassment. This procedure defines sexual harassment and other forms of harassment on campus. The procedure for the investigation and resolution of complaints of harassment by or against any staff or faculty member or student within the District is set forth in AP 3435.

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

Definitions:

General Harassment: Harassment based on race or ethnicity, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, or sexual orientation of any person, or the perception that a person has one or more of these characteristics is illegal and violates District policy. Gender-based harassment does not necessarily involve conduct that is sexual. Any hostile or offensive conduct based on gender can constitute prohibited harassment. For example, repeated derisive comments about a person's competency to do the job, when based on that person's gender, could constitute gender-based harassment. Harassment comes in many forms, including but not limited to the following conduct:

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

derogatory attitudes based on gender, race nationality, sexual orientation or other protected status.

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

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

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

Sexual Harassment: In addition to the above, sexual harassment consists of unwelcome sexual advances, requests for sexual favors, and other conduct of a sexual nature when:

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

This definition encompasses two kinds of sexual harassment:

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

"Hostile environment" sexual harassment occurs when unwelcome conduct based on a person's gender is sufficiently severe or pervasive so as to alter the conditions of an individual's learning or work environment, unreasonably interfere with an individual's academic or work performance, or create an intimidating, hostile, or abusive learning or work environment. The victim must subjectively perceive the environment as hostile, and the harassment must be such that a reasonable person of the same gender would perceive the environment as hostile. A single or isolated incident of sexual harassment may be sufficient to create a hostile environment if it is severe, i.e. a sexual assault.

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

Examples: Harassment includes, but is not limited to the following misconduct:

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

- **Physical:** Inappropriate or offensive touching, assault, or physical interference with free movement. This may include, but is not limited to, kissing, patting, lingering or intimate touches, grabbing, pinching, leering, staring, unnecessarily brushing against or blocking another person, whistling or sexual gestures.
- **Visual or Written:** The display or circulation of offensive sexually oriented or other discriminatory visual or written material. This may include, but is not limited to, posters, cartoons, drawings, graffiti, reading materials, computer graphics or electronic media transmissions.
- **Environmental:** An academic or work environment that is permeated with racially or sexually-oriented talk, innuendo, insults or abuse not relevant to the subject matter of the class or activities on the job. A hostile environment can arise from an unwarranted focus on sexual topics or sexually suggestive statements in the classroom or work environment. An environment may be hostile if unwelcome sexual behavior or other harassing behavior based on a protected status is directed specifically at an individual or if the individual merely witnesses unlawful harassment in his/her immediate surroundings. The determination of whether an environment is hostile is based on the totality of the circumstances, including such factors as the frequency of the conduct, the severity of the conduct, whether the conduct is humiliating or physically threatening, and whether the conduct unreasonably interferes with an individual's learning or work.

Consensual Relationships

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

Academic Freedom

To the extent the harassment policies and procedures are in conflict with the District's policy on academic freedom, the harassment policies and procedures shall prevail. If the faculty member wishes to use sexually explicit materials in the classroom as a

teaching technique, the faculty member must review that use with an administrator to determine whether or not this violates the sexual harassment policy.

Any student or employee who believes that he/she has been harassed or retaliated against in violation of this procedure should immediately report such incidents by following the procedures described in AP 3435 titled Discrimination and Harassment Complaint Procedures. Supervisors are mandated to report all incidents of harassment and retaliation that come to their attention.

In cases involving complaints against represented employees, please refer to the collective bargaining agreement for additional procedures and protections.

Date Adopted: May 19, 2015

(This is a new procedure recommended by the Policy and Procedure Service.)

General Institution

**AP 3435 DISCRIMINATION AND HARASSMENT COMPLAINT
PROCEDURES**

References:

Board Policies 3410 and 3430;
Education Code Sections 212.5, 44100, 66250 et seq., 66281.5; 72010 et seq.,
76234, 87100 et seq., 87740;
Civil Code Section 47;
Government Code Sections 11135, 12926.1, 12940 et seq.;
Title 5 of the California Code of Regulations, sections 53000 et seq., 59300 et
seq.;
Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d), Title VII of the Civil
Rights Act of 1964 (42 U.S.C. § 2000e), Title IX of the Education
Amendments of 1972 (20 U.S.C. § 1681 et seq.), Section 504 of the
Rehabilitation Act of 1973 (29 U.S.C. § 794), the Americans with Disabilities
Act of 1990 (42 U.S.C. § 12100 et seq.), the Age Discrimination Act (42
U.S.C. § 6101 et seq.; 34 C.F.R. 110.1 et seq.), and the Age Discrimination in
Employment Act (21 U.S.C. § 621 et seq.);
34 CFR sections 104.4, 104.7, 106, 106.8, 110.25, 110.26; 28 CFR 35.107;
Accreditation Standard II.B.2.c.;
OCR Dear Colleagues Letter: Sexual Violence, April 4, 2011.

1. Definitions

- a. **Accused:** The District, or any person identified in a Formal or Informal Complaint alleged to have engaged in Harassment, Discrimination, or Retaliation as defined in this procedure.
- b. **Days:** Calendar days.
- c. **DFEH:** The California Department of Fair Employment and Housing.
- d. **Discrimination or Harassment:** All references to alleged discrimination, harassment, or retaliation in this procedure refer to allegations relating to District employment, or participation in the District's education programs or activities, including academic, educational, extra-curricular, athletic, and other programs, whether they take place in the District's facilities, on a District bus, at a class or training program sponsored by the District at

another location, or elsewhere. Harassment or discrimination includes the following:

(1) the denial or limitation of full and equal access or equal treatment in relation to District employment, or participation in the District's education programs, activities, or services on the basis of having, or associating with someone who has, one or more of the following actual or perceived characteristics:

- Age;
- Ancestry;
- Color;
- Religious Creed (including religious dress and grooming practices);
- Family and Medical Care Leave;
- Disability (mental and physical) including HIV and AIDS;
- Marital Status;
- Medical Condition (including cancer and genetic characteristics);
- Genetic Information
- Military and Veteran Status;
- National Origin (including language use restrictions);
- Race;
- Sex (which includes pregnancy, childbirth, breastfeeding and medical conditions related to pregnancy, childbirth or breastfeeding);
- Gender, Gender Identity, and Gender Expression;
- Sexual Orientation; or

(2) harassing conduct, including verbal, nonverbal, physical aggression, or intimidation, (such as name-calling, graphic or written statements, physical threats, or humiliating conduct), on the basis of the above-referenced actual or perceived characteristics. Harassment or Discrimination includes all of the foregoing in violation of any of the following:

(1) Board policies 3410 or 3430;

(2) Education Code sections 212.5, 44100, 66250 et seq., 66281.5, 72010 et seq., or 87100 et seq.;

(3) regulations adopted by the Board of Governors of the California Community Colleges (Title 5, California Code of Regulations, sections 59300 et seq., or 53000 et seq.); or

(4) Federal law (Title VI of the Civil Rights Act of 1964, Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments

of 1972, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act, or the Age Discrimination in Employment Act).

- e. Discrimination Not Involving Employment: Discrimination, Harassment, or Retaliation, as defined in this procedure, which is alleged to have occurred against a student or other non-employee in which the Accused party is: (1) the District; (2) a student or employee of the District; or (3) a third party.
- f. Discrimination Involving Employment: Discrimination, Harassment, or Retaliation, as defined in this procedure, which is alleged to have occurred against an employee.
- g. District: Chabot-Las Positas 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 any organization associated with the District or its college(s) that receives state funding or financial assistance from or through the District.
- h. EEOC: The U.S. Equal Employment Opportunity Commission.
- i. Formal Complaint: A written and signed statement filed with the District or the State Chancellor's office that alleges Harassment, Discrimination, or Retaliation in violation of the nondiscrimination regulations adopted by the Board of Governors of the California Community Colleges, as set forth at title 5, sections 59300 et seq.
- j. Informal Complaint: An informal complaint is any of the following: (1) An unwritten allegation of Harassment, Discrimination, or Retaliation; (2) a written allegation of Harassment, Discrimination, or Retaliation that falls outside the timelines for a Formal Complaint; or (3) a written complaint alleging Harassment, Discrimination, or Retaliation filed by an individual who expressly indicates that he or she does not want to file a Formal Complaint.
- k. Informal Resolution: An informal resolution is the end result of an Informal Complaint or a Formal Complaint following efforts undertaken by the RDO or designee to resolve the matter informally. It is a written document that memorializes a resolution between, and satisfactory to, the Victim and the Accused.
- l. OCR: The Office for Civil Rights of the U.S. Department of Education.
- m. Official Reporter: An individual who submits an Informal or Formal Complaint alleging that another or others, not himself or herself, has suffered Harassment, Discrimination, or Retaliation, and who learned of the alleged Discrimination, Harassment, and/or Retaliation in his or her official capacity

as a District faculty member or administrator as described in title 5, section 59328. When an Official Reporter files a complaint on behalf of an individual victim, the District will require revocable written consent from the Victim for the Official Reporter to act on her or his behalf as a Victim Advocate, if the Victim chooses to have her or him to do so.

- n. Responsible District Officer (“RDO”): The person responsible for receiving Informal and Formal Complaints and implementing the procedures set forth in AP 3435. The District’s RDO is the Vice Chancellor of Human Resources. The RDO may delegate the performance of duties required to implement these procedures; however, delegation of such duties does not relieve the RDO of his or her responsibility for implementing these procedures.
- o. Retaliation: Any adverse action taken in response to someone: (1) filing an Informal or Formal Complaint; (2) reporting alleged Discrimination or Harassment; (3) participating in an investigation of an Informal or Formal Complaint; or (4) representing or serving as an advocate for an alleged Discrimination or Harassment victim or alleged offender.
- p. Sex-Based Harassment: A particular form of Harassment that is either sexual in nature (“sexual harassment”) or motivated by gender (“gender-based harassment”). Sexual harassment may include unwelcome sexual advances, requests for sexual favors, sexual favoritism, sexual violence, other verbal or physical conduct, or communications of a sexual nature. Gender-based harassment may include negative stereotyping, or other harassing conduct (such as name-calling, graphic or written statements, physical threats, or humiliating conduct) based on sex or gender/gender identity made by someone from or in the workplace or educational setting.
- q. Third-Party Reporter: An individual other than an Official Reporter who submits an Informal or Formal Complaint alleging that another or others, and not himself or herself, has suffered Harassment, Discrimination, or Retaliation. When a Third Party Reporter files a complaint on behalf of an individual victim, the District will require revocable written consent from the Victim for the Third Party Reporter to act on her or his behalf as a Victim Advocate.
- r. Victim: An individual who is alleged to have personally suffered Harassment, Discrimination, or Retaliation.
- s. Victim Advocate: An individual designated by the Victim, in a written document submitted to the RDO or designee, to whom the Victim grants revocable authorization to act on the Victim’s behalf and receive information from the District.

2. Informing Students and Employees of Procedures for Filing Informal and Formal Complaints

The District encourages any individual who believes he or she has been the Victim of Harassment, Discrimination, or Retaliation, or who believes that another has been the Victim of Harassment, Discrimination, or Retaliation, to file an Informal or Formal Complaint. The timelines under which a Formal Complaint must be filed are set forth in section 6.2 of these procedures (employment matters within 180 days and non-employment matters within one year). To enable the District's prompt and effective action in addressing concerns, the District strongly encourages the filing of Informal and Formal Complaints within 30 days of the alleged incident or as soon as possible within the timelines under section 6.2. While all Informal and Formal Complaints are taken seriously and will be investigated promptly, delay in filing impedes the District's ability to investigate and take remediating action.

The procedures for filing Informal and Formal Complaints that are set forth in this Administrative Procedure shall be (1) widely published and publicized to students and employees; (2) posted on the District's website and each college's website; (3) provided to all students as part of any orientation program conducted for new students at the beginning of each term; (4) provided to all employees at the time they are first employed and as part of any orientation program for new employees; (5) displayed in a prominent location in the main administrative building of each campus and the District office; and (6) published in each college course catalog. The Formal Complaint form prescribed by the State Chancellor shall be available at each college department of student services, the office of each college President, the District human resources department, and by a "link" published on the District's and each college's website.

(Education Code, §§ 66252, 66270, 66281.5, Government Code, § 11135, Title 5, § 59326.)

3. Interim Measures Upon Receipt of an Informal or Formal Complaint

Upon receipt of an Informal or Formal Complaint, the RDO shall immediately assess whether interim steps are warranted. Examples of interim measures may include steps to prevent contact between an alleged Victim and the Accused while the complaint is being investigated and/or resolved, counseling, academic support, health and mental services, and/or escort services. In making this assessment, the RDO will consider the seriousness of the allegations, whether they include allegations of physical or sexual violence, whether they include allegations of Retaliation, and the power differential between the parties. When preventing contact between the parties is found to be warranted, the RDO or designee may take a variety of steps as he or she deems appropriate such as: (1) placing the Accused on paid administrative leave or immediate, interim suspension; (2) changes in the academic schedule or work assignment of the

Victim and/or Accused; or (3) prohibiting the Accused from having any contact with the alleged Victim pending the results of the investigation. When taking steps to separate the alleged Victim and the Accused, the District shall minimize the burden on the alleged Victim. When any such steps are taken, the RDO or designee will make clear to all parties that these are non-disciplinary, interim measures pending the completion of an investigation and that no findings of wrongdoing have been made.

4. Informal Complaints

Any person may submit an Informal Complaint to the RDO or any other District or college administrator. Administrators receiving an Informal Complaint shall immediately notify the RDO in writing of all pertinent information and facts alleged in the Informal Complaint. Upon receipt of an Informal Complaint, the RDO or designee will notify the person bringing the Informal Complaint of his or her right to file a Formal Complaint, if the incident falls within the timeline for a Formal Complaint, and explain the procedure for doing so. If the individual is within the timelines and chooses not to submit a Formal Complaint, the RDO or designee will present the individual with a written description of the Formal Complaint process and a summary of the allegations provided by the individual making the Informal Complaint. This document will clearly indicate that the RDO or designee advised the individual of his or her option to file a Formal Complaint and that the individual chose not to do so. The RDO or designee will request the individual to sign and date the document. Signing the document does not preclude the individual from later deciding to file a Formal Complaint, if within the timelines to do so. If the individual chooses not to file a Formal Complaint, or if the alleged conduct falls outside the timeline to file a Formal Complaint, the RDO or designee shall consider the allegations contained in the Informal Complaint and determine the appropriate course of action. This may include efforts to informally resolve the matter, and/or a fact-finding-investigation. Investigation of an informal complaint will be appropriate if the RDO or designee determines that the allegation(s), if proven true, would constitute a violation of the District policy prohibiting Harassment, Discrimination, or Retaliation. The RDO or designee will explain to any individual bringing an Informal Complaint that the RDO or designee may decide to initiate an investigation, even if the individual does not wish the RDO or designee to do so. The RDO or designee shall not disregard any allegations of Harassment, Discrimination, or Retaliation on the basis that the alleged conduct falls outside the deadline to file a Formal Complaint.

(Title 5, §§ 59324, 59327; 59328, 34 CFR 106.8.)

5. Informal Resolution Process

Whenever any person brings allegations of Harassment, Discrimination, or Retaliation to the attention of the District, the RDO or designee shall undertake efforts to informally

resolve the matter between the alleged Victim and the Accused party or parties as follows:

- a. The victim may participate in the informal resolution process described below through, or with the assistance of, a Victim Advocate, with the following limitations:
 - i. The Victim Advocate must sign a confidentiality agreement stating that he or she is precluded from disclosing information obtained through the resolution process, unless such disclosure is authorized by law, and is made on behalf of the Victim with his or her approval.
 - ii. If the Accused is a District employee, his or her consent is required for the participation of a Victim Advocate who is a non-management or subordinate District employee.
 - iii. No Informal Resolution of an individual complaint may be adopted without the approval of the Victim himself or herself.
- b. When Informal Resolution efforts occur in response to an Informal Complaint, the RDO or designee is not required to initiate an investigation or engage in the procedural steps that apply to a Formal Complaint. However, the RDO or designee shall advise the alleged Victim that he or she may file a Formal Complaint at any time during the informal resolution process if the incident falls within the permissible timeline for a Formal Complaint (see section 6.2 -- (employment matters within 180 days and non-employment matters within one year). The informal resolution process may continue after the filing of a Formal Complaint; however, all timelines and procedural requirements for Formal Complaints must be met. The informal resolution process does not extend the time limitations for filing a Formal Complaint;
- c. When the District is first made aware of allegations of Harassment, Discrimination, or Retaliation through the filing of a Formal Complaint, the RDO or designee will inform the alleged Victim that he or she may engage in an informal resolution process. However, if he or she opts for an informal resolution process, all timelines and procedural requirements for Formal Complaints (see section 6.2) must be met;
- d. The RDO or designee shall advise the alleged Victim that the informal resolution process is optional;

- e. The RDO or designee shall advise the alleged Victim that the informal resolution process does not require that he or she confront or work out problems directly with the Accused, and that in cases involving allegations of sexual assault, mediation is not appropriate even on a voluntary basis;
- f. If the alleged Victim has filed a Formal Complaint, any efforts at informal resolution shall not exceed ninety (90) Days after the District's receipt of the Formal Complaint, in conformance with the timeline for an administrative determination as provided in section 6.8 of this procedure;
- g. If the alleged Victim has filed an Informal Complaint, the RDO or designee should generally seek to conclude the informal resolution process as soon as possible but within 90 days after receipt of the Informal Complaint. If the RDO or designee determines that, due to extenuating circumstances, the informal resolution process should be extended beyond 90 days, the RDO or designee will provide written notice to the alleged Victim and the Accused advising them that the informal resolution process will be extended for a specified number of days, by the end of which the RDO or designee will conclude the informal resolution process. The time period for any such extension shall be reasonable under the circumstances and not due to lack of diligence by the District;
- h. At all times, it remains within the sole discretion of the District to determine whether alleged Harassing, Discriminatory, or Retaliatory conduct warrants discipline. An alleged Victim and the Accused do not have the authority to include in an informal resolution the disposition of discipline. However, the District may take into consideration the results of an informal resolution in determining whether and what discipline is appropriate. Similarly, even if an alleged Victim withdraws his or her Informal or Formal Complaint as the result of a successful informal resolution, the RDO or designee may require the investigation to continue if he or she determines that the allegation(s), if proven to be true, would constitute a violation of District policies prohibiting Discrimination, Harassment, or Retaliation; the District will inform the Victim of this possibility before initiating informal resolution;
- i. If the matter is resolved, the RDO or designee will put the resolution in writing and meet with the alleged Victim and the Accused, who will review and sign the document memorializing the resolution. The Victim shall be responsible for informing the RDO or designee if the Accused fails to comply with the terms of the informal resolution. Upon such notice, the RDO or designee shall be responsible for enforcing the terms of the Informal Resolution agreement;

- j. If it becomes clear to the RDO or designee that an informal resolution cannot be reached, he or she will convey the determination to both parties. The RDO or designee will also inform the alleged Victim of his or her right to file a Formal Complaint if he or she has not already done so;
- k. If a Formal Complaint submitted by an Official Reporter is resolved through the informal resolution process, the RDO or designee will notify the Official Reporter that the alleged Victim and the Accused participated in the Informal Resolution process and successfully resolved the matter. The Official Reporter is not entitled to receive any other information about the resolution unless he or she would otherwise receive this information due to his or her supervisory role over the Accused, or due to her or his role as a Victim Advocate; and
- l. If a Third Party Reporter or Official Reporter files an Informal Complaint alleging that a class of Victims has suffered Discrimination, Harassment, or Retaliation, the Third Party Reporter or Official Reporter may participate in the Informal Resolution Process as set forth in this Section 5 as if standing in the shoes of the Victims. For example, a Third Party or Official Reporter may file a Complaint for an alleged failure to provide wheelchair accessible facilities. In such cases, the District may work directly and solely with the Third Party or Official Reporter to reach an informal resolution.

(Title 5, §§ 59324, 59327; 59328, 59334, 59336, and 59339; 34 CFR 106.8; 34 CFR 110.25; and 28 CFR 35.107.)

6. FORMAL COMPLAINTS

Anyone may file a Formal Complaint, including: (1) an alleged Victim; (2) a Third-Party Reporter, or (3) an Official Reporter. Formal Complaints must be submitted to the State Chancellor or the RDO unless the party submitting the Formal Complaint alleges Discrimination, Harassment, or Retaliation against the RDO, in which case it should be submitted directly to the District Chancellor or the State Chancellor.

(Title 5, §§ 59324, 59327; 34 CFR 106.8.)

6.1 USE OF THE PRESCRIBED FORMAL COMPLAINT FORM

Formal Complaints should be submitted on the form prescribed by the State Chancellor. A copy of the form will be available at each college department of student services, the office of each college President, the District human resources department, and on each college's and the District's web sites. A copy of the form may be downloaded at the following web pages:

<http://extranet.cccco.edu/Divisions/Legal/Discrimination.aspx#CmpltForm>

or

<http://www.clpccd.org/HR/HRGovForms.php> - *Unlawful Discrimination Complaint Form*

Any party may file the form with the RDO or mail it directly to the State Chancellor's Office of the California Community Colleges. The address for the State Chancellor's Office is provided on the form.

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

(Title 5, §§ 59311, 59328.)

6.2 REQUIRED ELEMENTS OF A FORMAL COMPLAINT

A Formal Complaint must meet each of the following criteria:

- a. It must allege facts with sufficient specificity to show that the allegations, if true, would constitute a violation of District policies or procedures prohibiting Discrimination, Harassment, and/or Retaliation;
- b. The complainant must sign and date the Formal Complaint;
- c. The complainant must file any Formal Complaint not involving employment within one year of the date of the alleged Discriminatory, Harassing, or Retaliatory conduct or within one year of the date on which the complainant knew or should have known of the facts underlying the allegation(s) of Discrimination, Harassment, and/or Retaliation.
- d. The complainant must file any Formal Complaint alleging Discrimination, Harassment, and/or Retaliation in employment within 180 Days of the date of the alleged Discriminatory, Harassing, or Retaliatory conduct, except that this period shall be extended by no more than 90 Days following the expiration of the 180 Days if the complainant first obtained knowledge of the facts of the alleged violation after the expiration of the 180 Days.

If the Formal Complaint does not meet the requirements set forth above, the RDO or designee will promptly return it to the complainant with a written notice specifying the defect. If the Formal Complaint was filed by an alleged Victim or an Official Reporter, the RDO or designee will also send a copy of the notice of defect to the State Chancellor at the same time he or she sends it to the complainant. If the sole defect is that the Formal Complaint was filed outside the applicable proscribed timeline, the RDO or designee will handle the matter as an Informal Complaint.

Immediately upon receiving a Formal Complaint that: (1) meets the requirements stated above; and (2) was filed by an alleged Victim or an Official Reporter, the RDO or designee shall forward a copy of the Formal Complaint to the State Chancellor. The RDO is not required to forward Formal Complaints filed by other Third Party Reporters to the State Chancellor.

(Title 5, §§ 59328, 59330, 59332.)

6.3 RIGHT TO FILE A COMPLAINT WITH THE OCR, THE DFEH, THE EEOC, OR LOCAL LAW ENFORCEMENT

- a. Upon receipt of an Employment-Based Formal Complaint, the RDO or designee shall (1) advise the complainant that he or she may file a complaint with the EEOC or DFEH; and (2) forward a copy of any filing by the individual with the DFEH or the EEOC to the State Chancellor's Office for a determination of whether the issues presented require an independent investigation of the matter.
- b. Upon receipt of a Non-Employment-Based Formal Complaint, the RDO or designee shall advise the complainant that he or she may file a complaint with the OCR.
- c. The RDO or designee shall advise any individual submitting a Formal Complaint that he or she has a right to file a complaint with local law enforcement. The District must investigate Formal Complaints even if the complainant also files a complaint with local law enforcement or OCR.

(Title IX – see OCR, Questions and Answers on Title IX and Sexual Violence, April 29, 2014, p. 13; Title 5, §§ 59327, 59328.)

6.4 INVESTIGATION

- a. Upon receiving a Formal Complaint that meets all of the applicable requirements set forth in section 6.2, the RDO or designee shall initiate a fact-finding investigation. No Formal Complaint of Harassment, Discrimination, or Retaliation shall remain unexamined. .

- b. The RDO or designee shall notify the complainant that he or she has initiated an investigation.
- c. If a Formal Complaint was filed by an alleged Victim or by an Official Reporter, the RDO or designee shall notify the State Chancellor that he or she has initiated an investigation.
- d. The RDO or designee may conduct the investigation or assign it to other staff or outside persons or organizations under contract with the District. Other staff, not reporting to the RDO, or an outside person or organization, will perform the investigation whenever the RDO is named in the Formal Complaint or implicated by the allegations in the Formal Complaint.
- e. In all instances, the person conducting the investigation will have relevant investigative experience or training and knowledge of pertinent District policies and laws governing Harassment, Discrimination, and Retaliation.
- f. The District will fairly and objectively investigate all Formal Complaints. This shall include giving the Victim or other complainant and the Accused an equal opportunity to inform the investigator of evidence and witnesses that they believe to be relevant to assessing the allegations. The investigator has the ultimate authority to determine who it is necessary to interview and what documents to review in order to complete a thorough, fair, objective and timely investigation. However, he or she will not unreasonably fail to consider evidence identified by the Victim, other complainant, or Accused. The investigator may not have any real or perceived conflicts of interest and must be able to investigate the allegations impartially.

6.5 Written Report

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

- a. A description of the circumstances giving rise to the Formal Complaint;
- b. A summary of the testimony provided by each witness interviewed by the investigator;
- c. An analysis of relevant evidence collected during the course of the investigation;
- d. A specific finding as to whether there is probable cause to believe that Discrimination, Harassment, and/or Retaliation occurred with respect to each allegation in the Formal Complaint; and

- e. Any other information deemed appropriate by the District.

(Title 5, §§ 59320, 59324, 59334.)

6.6 CONFIDENTIALITY OF THE PROCESS

Investigative processes can best be conducted within a confidential climate. Therefore, the District does not reveal information about such matters except as necessary to fulfill its legal obligations. The District will keep the investigation confidential to the extent possible, but it cannot guarantee absolute confidentiality because release of some information on a “need-to-know-basis” is essential to a thorough investigation and to protect the rights of Accused students and employees during the investigation process and any ensuing discipline.

(Cal. Const. Art. I, § 1.)

6.7 ADMINISTRATIVE DETERMINATION IN CASES NOT INVOLVING EMPLOYMENT

The RDO or designee shall complete the investigation and provide a copy of the investigative report to the District Chancellor in sufficient time for the Chancellor or designee to issue an administrative decision within ninety (90) Days after receipt of a Formal Complaint. The District shall take the following actions within ninety (90) Days after receipt of a Formal Complaint:

- a. The RDO or designee shall forward to the alleged Victim and/or Victim Advocate and to the Accused:
 - (1) a copy or summary of the investigative report;
 - (2) the administrative determination of the District Chancellor or his or her designee as to whether there is probable cause to believe Discrimination, Harassment, or Retaliation occurred with respect to each allegation in the Formal Complaint;
 - (3) a description of actions taken, if any, to stop any Discrimination, Harassment, or Retaliation found, to prevent similar problems from occurring in the future, and to remedy the effects of Discrimination, Harassment, or Retaliation on the Victim and other individuals, as necessary, provided, however, that the Accused will not be notified of the individual remedies offered or provided to the Victim that do not relate directly to limitations or consequences imposed on the Accused;
 - (4) the proposed resolution of the Formal Complaint; and

- (5) notice of the right of the alleged Victim to appeal the determination to the District governing board and to the State Chancellor.
- b. If a Third Party Reporter or Official Reporter files a Formal Complaint alleging Discrimination, Harassment, or Retaliation, against a class of Victims, (such as an allegation that facilities are not wheelchair accessible), the Third Party Reporter or Official Reporter shall stand in the shoes of the Victims for the purposes of Section 6.7, subdivision a.
 - c. If the Formal Complaint was filed by an alleged Victim or an Official Reporter, the RDO or designee shall forward to the State Chancellor:
 - (1) a copy of the investigative report;
 - (2) the administrative determination of the District Chancellor or his or her designee as to whether there is probable cause to believe Discrimination, Harassment, or Retaliation occurred with respect to each allegation in the Formal Complaint;
 - (3) a description of actions taken, if any, to stop any Discrimination, Harassment, or Retaliation found, to prevent similar problems from occurring in the future, and to remedy the effects of Discrimination, Harassment, or Retaliation on the Victim;
 - (4) the proposed resolution of the Formal Complaint; and
 - (5) a copy of the notice sent to the alleged Victim advising him or her of his or her right to appeal the determination to the District governing board and to the State Chancellor.
 - d. If the Formal Complaint was filed by an Official Reporter on behalf of an individual rather than a class of Victims, the District will advise the Official Reporter that the District completed the investigation and apprised the alleged Victim and the Accused of the District's findings.

(Title 5, §§ 59328, 59336, 59338, 59339.)

6.8 ADMINISTRATIVE DETERMINATION IN CASES INVOLVING EMPLOYMENT

The District shall complete the investigation and take the following actions within ninety (90) Days after receipt of a Formal Complaint.

- a. The RDO or designee shall forward to the alleged Victim and/or Victim Advocate and to the Accused:

- (1) A copy or a summary of the investigative report:
 - (2) The administrative determination of the District Chancellor or his or her designee as to whether there is probable cause to believe Discrimination, Harassment, or Retaliation occurred with respect to each allegation in the Formal Complaint;
 - (3) A description of actions taken, if any, to stop any Discrimination, Harassment, or Retaliation found, to prevent similar problems from occurring in the future, and to remedy the effects of Discrimination, Harassment, or Retaliation on the Victim and/or the broader student population;
 - (4) The proposed resolution of the Formal Complaint; and
 - (5) The alleged Victim's right to appeal the determination to the District governing board and/or to file a complaint with the DFEH.
- b. If the Formal Complaint was filed by an Official Reporter on behalf of an individual rather than a class of Victims, the District will advise him or her that the District completed the investigation and apprised the alleged Victim and the Accused of the findings.

(Title 5, §§ 59328, 59336, 59338, 59339.)

6.9 APPEALS

An alleged Victim has the right to file an appeal if he or she is not satisfied with the results of the District's administrative determination. Victims may utilize the Appeals process with the assistance of a Victim Advocate. The following procedures apply to appeals:

- a. First Level of Appeal: An alleged Victim has the right to file a written appeal to the District's governing board within fifteen (15) Days from the date of notice of the administrative determination. The District's governing board will review the original Formal Complaint, the investigative report, the administrative determination, and the appeal.

The District's governing board will issue a final District decision in the matter within forty-five (45) Days after receiving the appeal. Alternatively, the District's governing board may elect to take no action within forty-five (45) Days, in which case the original decision in the administrative determination shall become the final District decision in the matter. The RDO or designee will provide a copy of the final decision to the alleged Victim and the Accused.

b. Second Level of Appeal

- (1) Cases Not Involving Employment: If the alleged Victim is not satisfied with the result of the First Level Appeal, he or she has the right to file a written appeal with the State Chancellor's Office within thirty (30) Days of the District's final decision following an appeal to the District's governing board. The written appeal must be accompanied by (1) a copy of the decision of the governing board; or (2) evidence showing the date on which the party filed an appeal with the governing board, accompanied by a statement under penalty of perjury that the party did not receive a response from the governing board within forty-five (45) Days from that date.
- (2) Cases Involving Employment: The alleged Victim has the right to file a complaint with the DFEH or the EEOC, where the case is within the jurisdiction of that agency.

- c. Complaints by Third Party Reporters or Official Reporters: If a Third Party Reporter or Official Reporter files a Formal Complaint alleging Discrimination, Harassment, or Retaliation, against a class of Victims (such as an allegation that facilities are not wheelchair accessible), the Third Party Reporter or Official Reporter shall stand in the shoes of the Victims for the purposes of this Section.

(Title 5, §§ 59328, 59338, 59339; Title 2, § 10001.)

6.10 PROVISION OF INFORMATION ABOUT APPEALS TO STATE CHANCELLOR

In any case involving alleged Discrimination, Harassment, or Retaliation, not involving employment, if the Formal Complaint was filed by an alleged Victim or an Official Reporter, the RDO or designee will, within 150 days of receiving a Formal Complaint, either:

- a. Notify the State Chancellor that the alleged Victim did not file an appeal with the District's governing board and that the District has closed its file; or
- b. Forward the following to the State Chancellor: (1) a copy of the notice of appeal rights the District sent to the alleged Victim; (2) a copy of the alleged Victim's appeal of the District's administrative determination; (3) a copy of the final District decision; and (4) any other information the State Chancellor may require.

The reporting obligations specified above do not apply to Formal Complaints submitted by other Third-Party Reporters.

6.11 EXTENSIONS

If the District is unable to comply with the 90-Day or 150-Day deadlines (specified above in sections 6.7 and 6.10) for reasons beyond its control, the RDO or designee may file a written request with the State Chancellor requesting an extension of the deadline. The RDO or designee must submit the request no later than 10 Days prior to the expiration of the deadline. The request must set forth the reasons for the request and the date by which the District expects to be able to submit the required materials.

The RDO or designee shall send a copy of the request for an extension to the alleged Victim and provide him or her with notice that he or she may file written objections to the request for an extension with the State Chancellor within 5 Days of receipt. If the complaint was filed by a Third Party reporter on behalf of a class of individuals, the Third Party Reporter shall stand in the shoes of the alleged Victim for purposes of this Section. If the State Chancellor grants the request for an extension of the 90-day deadline, the 150-day deadline is automatically extended by an equal amount.

(Title 5, § 59342.)

6.12 FILE RETENTION

The District will retain on file for a period of at least three years after closing the case copies of (1) the original Formal Complaint; (2) the investigatory report; (3) the summary of the report if one is prepared; (4) the notice provided to alleged Victim, or Third Party Reporter of a class complaint, of the District's administrative determination and his or her right to appeal; (5) any appeal; and (6) the District's final decision. The District will make such documents available to the State Chancellor upon request.

(Title 5, §§ 59328, 59338 and 59340.)

7. Discipline and Corrective Action

Upon investigation of any Informal or Formal Complaint, if the District determines that Harassment, Discrimination and/or Retaliation occurred, the District shall take remedial action. The action will be prompt, effective, and commensurate with the severity of the offense.

7.1 CORRECTIVE ACTIONS

Remedies for the Victim might include, but are not limited to:

- a. providing an escort to ensure that the Victim can move safely between classes and activities;
- b. ensuring that the Victim and perpetrator do not attend the same classes or work in the same work area;
- c. preventing offending third parties from entering campus;
- d. providing counseling services and/or a referral to counseling services;
- e. providing medical services and/or a referral to medical services;
- f. providing academic support services, such as tutoring;
- g. arranging for a student-Victim to re-take a course or withdraw from a class without penalty, including ensuring that any changes do not adversely affect the Victim's academic record; and
- h. reviewing any disciplinary actions taken against the Victim to see if there is a causal connection between the Harassment, Discrimination, and/or Retaliation and the misconduct that may have resulted in the Victim being disciplined.

Remedies for the broader student population, if appropriate, might include notifying students of the availability of campus and community counseling, health, mental health, and other student services; providing training to students and District employees; developing materials to distribute to students and post on campus; creating a committee of students and campus officials to identify strategies for ensuring that students know about the District's prohibition against discrimination, including harassment; conducting a "climate check" to assess the effectiveness of efforts to ensure the campus is free from discrimination and harassment and using the resulting information to inform future proactive steps.

7.2 DISCLOSURE OF DISCIPLINARY ACTION TAKEN

If discipline is imposed, the details of the discipline will not be communicated to the Victim or Victim Advocate, without the permission of the Accused, except as set forth in this section. The District may disclose to a Victim or Victim Advocate that discipline has been imposed or other corrective measures taken, except that such information will not be disclosed to a Victim Advocate where the matter involves employee discipline and the Victim Advocate is a non-managerial or

subordinate employee to the Accused. The District may also disclose information to a Victim about the sanction imposed on an individual who was found to have engaged in Harassment when the sanction directly relates to the Victim; for example, the District may inform the Victim that the harasser must stay away from him or her.

7.3 ADHERENCE TO DISCIPLINE PROCEDURES

If the District determines that discipline should be imposed against a student or employee based on the findings in its investigation, the discipline process will comport with due process and related principles, and will conform to all applicable statutes, regulations, personnel policies and procedures, employment contracts, and collective bargaining agreements.

7.4 NOTICE TO VICTIM OF OUTCOME OF APPEAL

The RDO or designee shall provide written notice to the Victim promptly after any appeal is upheld or denied. If a successful appeal may impact the Victim, such as a return of the Accused individual to campus, the RDO or designee shall take steps as needed to remediate the environment for the alleged Victim.

The District shall also take reasonable steps (1) to protect the Victim from further Harassment and/or Discrimination; and (2) to protect the Victim, any Third-Party Reporter or Victim Advocate, and witnesses, from Retaliation. The District will ensure that Victims, Third-Party Reporters, and witnesses, know how to report any subsequent Harassment, Discrimination, and/or Retaliation.

(Ed. Code, § 76234)

8. EDUCATION AND TRAINING FOR STUDENTS AND EMPLOYEES

The RDO or designee shall provide or make arrangements to provide training and education to employees and students on the District's Harassment, Discrimination, and Retaliation policies and procedures and how to file an Informal or Formal Complaint.

- a. The District will provide all employees with a copy of the District's written policies and procedures on Harassment, Discrimination, and Retaliation upon hire and at the beginning of the first term of each college year.
- b. The District will provide training on the District's Harassment, Discrimination, and Retaliation policies and procedures for all employees during the first year of their employment.

- c. Because of their special responsibilities under the law, supervisors will undergo mandatory training within six months of assuming a supervisory position and thereafter once every two years. In years in which a substantive policy or procedural change has occurred, all District employees will attend a training update and/or receive a copy of the revised policies and procedures.
- d. In order to take proactive measures to prevent and address Discrimination and Harassment, including sexual harassment and sexual violence toward students, the District will provide preventive education programs and Victim resources and services. The District will educate students about such programs, resources, and services in orientation programs for new students, in training for student athletes and coaches, and in training provided to students who lead student organizations. These programs will include discussion of what constitutes Discrimination and Harassment, including sexual harassment and sexual violence, the District's policies and disciplinary procedures, the consequences of violating these policies, and how to file an Informal or Formal Complaint. The District will make such educational programs and information available to all students at least once annually.
- e. Student education programs will also include information aimed at encouraging students to report incidents of sexual violence to the appropriate college, District, and law enforcement authorities. Since Victims or third parties may be deterred from reporting incidents if alcohol, drugs, or other violations of District or campus rules were involved, the District will inform students that the primary concern is for student safety, and that use of alcohol or drugs never makes the Victim at fault for sexual violence.

(Ed. Code, § 66281.5; Gov. Code, § 12950.1; Title 5, §§ 59324, 59326, 59300 et seq.; 34 C.F.R. § 106.8(b); 28 CFR 35.107; 34 CFR 104.)

[See also BP and AP 3410 (Nondiscrimination) and BP and AP 3430 (Prohibition of Harassment).]

Date Adopted: July 21, 2015

(This is a new procedure recommended by legal counsel and OCR.)

college activity. In addition, this policy applies to all terms and conditions of employment, including but not limited to hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leave of absence, training opportunities and compensation.

To this end the Chancellor shall ensure that the institution undertakes education and training activities to counter discrimination and to prevent, minimize and/or eliminate any hostile environment that impairs access to equal education opportunity or impacts the terms and conditions of employment.

The Chancellor shall establish procedures that define harassment on campus. The Chancellor shall further establish procedures for employees, students, and other members of the campus community that provide for the investigation and resolution of complaints regarding harassment and discrimination, and procedures for students to resolve complaints of harassment and discrimination. All participants are protected from retaliatory acts by the District, its employees, students, and agents.

This policy and related written procedures (including the procedure for making complaints) shall be widely published and publicized to administrators, faculty, staff, and students, particularly when they are new to the institution. They shall be available for students and employees in all administrative offices.

Employees who violate the policy and procedures may be subject to disciplinary action up to and including termination. Students who violate this policy and related procedures may be subject to disciplinary measures up to and including expulsion.

Date Adopted: June 16, 2015

(This new policy replaces current CLPCCD Policies 4027 and 5517)

Screening/Interviewing Committee Briefing

David Betts, MS, SPHR

Chabot-Las Positas Community College District

Office of Human Resources



Overview

- Committee Member Responsibilities
- Confidentiality & Conflicts of Interest
- Equal Employment Opportunity (EEO)
 - The Law
 - Role of Human Resources
 - Protected Classifications, Pre-employment Inquiries, Candidates with Disabilities
 - Unconscious Bias
 - Committee Conduct
- Committee Proceedings

Committee Member Responsibilities



- Support the mission, vision, and values of the College and the District.
- Actively facilitate and participate in the process.
- Participate in discussion and development of screening criteria and interview questions.
- Evaluate candidates in accordance with the agreed-upon criteria.
- Be fair and consistent in applying the evaluation criteria.

Committee Member Responsibilities



- Participate in all interviews of the candidates.*
- Recommend finalists.
- Maintain confidentiality before, during, and after the process has been completed.
- Notify the Committee Chair or HR if you discover a breach of confidentiality or any unfair/biased practice occurring.

Confidentiality

- The hiring process is a highly sensitive process.
- It is critical that everyone maintain the highest degree of confidentiality in order to:
 - *Preserve the integrity of the process*
 - *Protect the privacy of the applicants*
 - *Protect the reputation of the Chabot – Las Positas*
 - *Provide a “safe space” for committee member participation*

Conflicts of Interest

- It is your responsibility to recognize potential biases or conflicts of interest.
- Relatives (blood/marriage/adoption)
- Close personal friends or a like/dislike of someone so compelling that you cannot remain fair or impartial.
- Failure to disclose a conflict of interest can provide credibility to a complaint of an unfair hiring practice by a candidate.

Confidentiality/Conflict of Interest

- Failure to disclose a conflict of interest, a breach in confidentiality, or personal bias toward a candidate may result in removal from the Committee and/or participation on future Selection committees.
- Failure to maintain confidentiality may result in a personnel action taken against an employee and may subject you and the District to liability.
- Immediately notify the committee chair or HR if confidentiality is breached or a conflict of interest arises.



Equal Employment Opportunity Law

CA Title 5 § 53003(c):

Screening/selection committee shall be trained on:

- a) federal and state law, including Title 5;
- b) the educational benefits of workforce diversity;
- c) the elimination of bias in hiring decisions; and
- d) best practices in serving on a selection/screening committee.



Equal Employment Opportunity Law

Education Code §87100(a)(3)

“A work force that is continually responsive to the needs of a diverse student population may be achieved by ensuring that all persons receive an equal opportunity to compete for employment and promotion within the community college districts and by eliminating barriers to equal employment opportunity.”



Equal Employment Opportunity Law

Education Code §87100(a)(2)

“Academic excellence can best be sustained in a climate of acceptance and with the inclusion of persons from a wide variety of backgrounds and preparations to provide service to an increasingly diverse student population.”

Equal Employment Opportunity Law

CA Title 5 §53024

“The governing board or its designee shall have the authority to make all final hiring decisions based upon careful review of the candidate or candidates recommended by a screening committee. This includes the *right to reject all candidates and to order further review by the screening committee or to reopen the position where necessary to further achievement of the objectives of the EEO plan or to ensure equal employment opportunity.*”

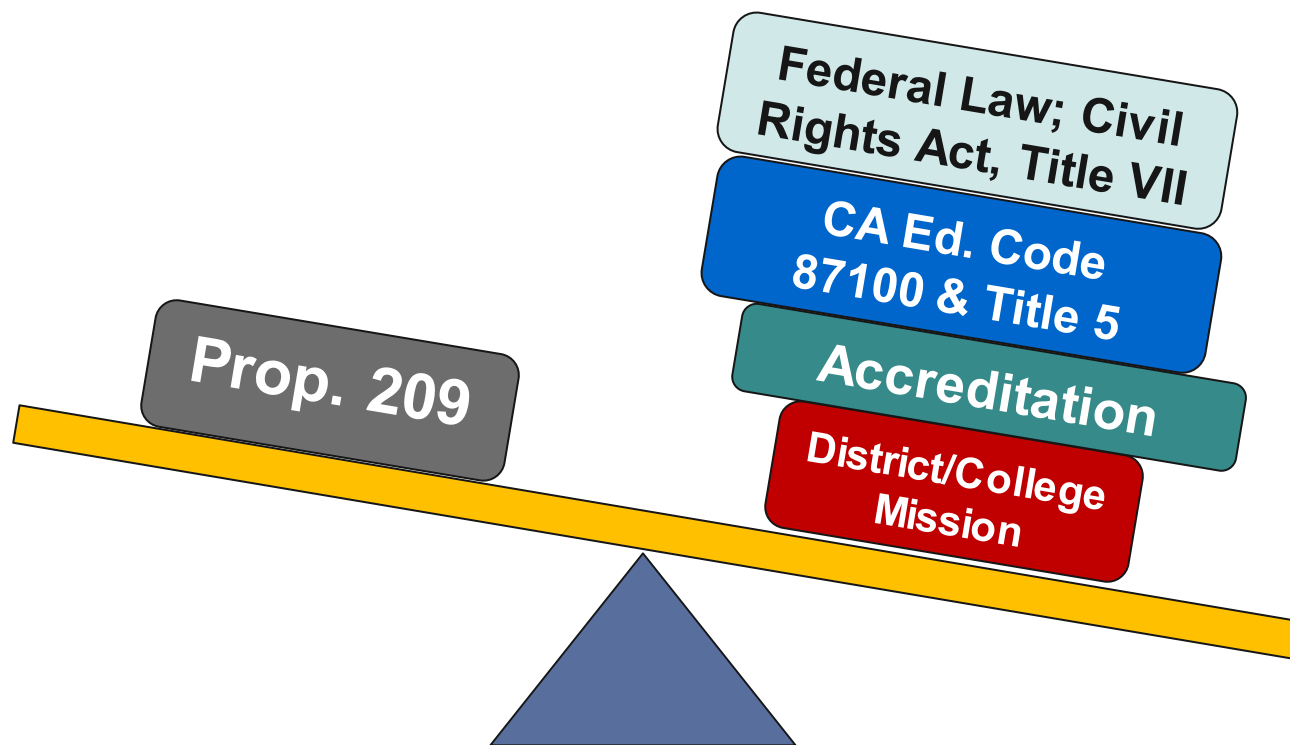
Equal Employment Opportunity Law

Government Code Section 11139.6

The legislature finds that the California Constitution “does not prevent governmental agencies from engaging in inclusive public sector outreach and recruitment programs that...may include focused outreach and recruitment of minority groups and women if any group is underrepresented...” including:

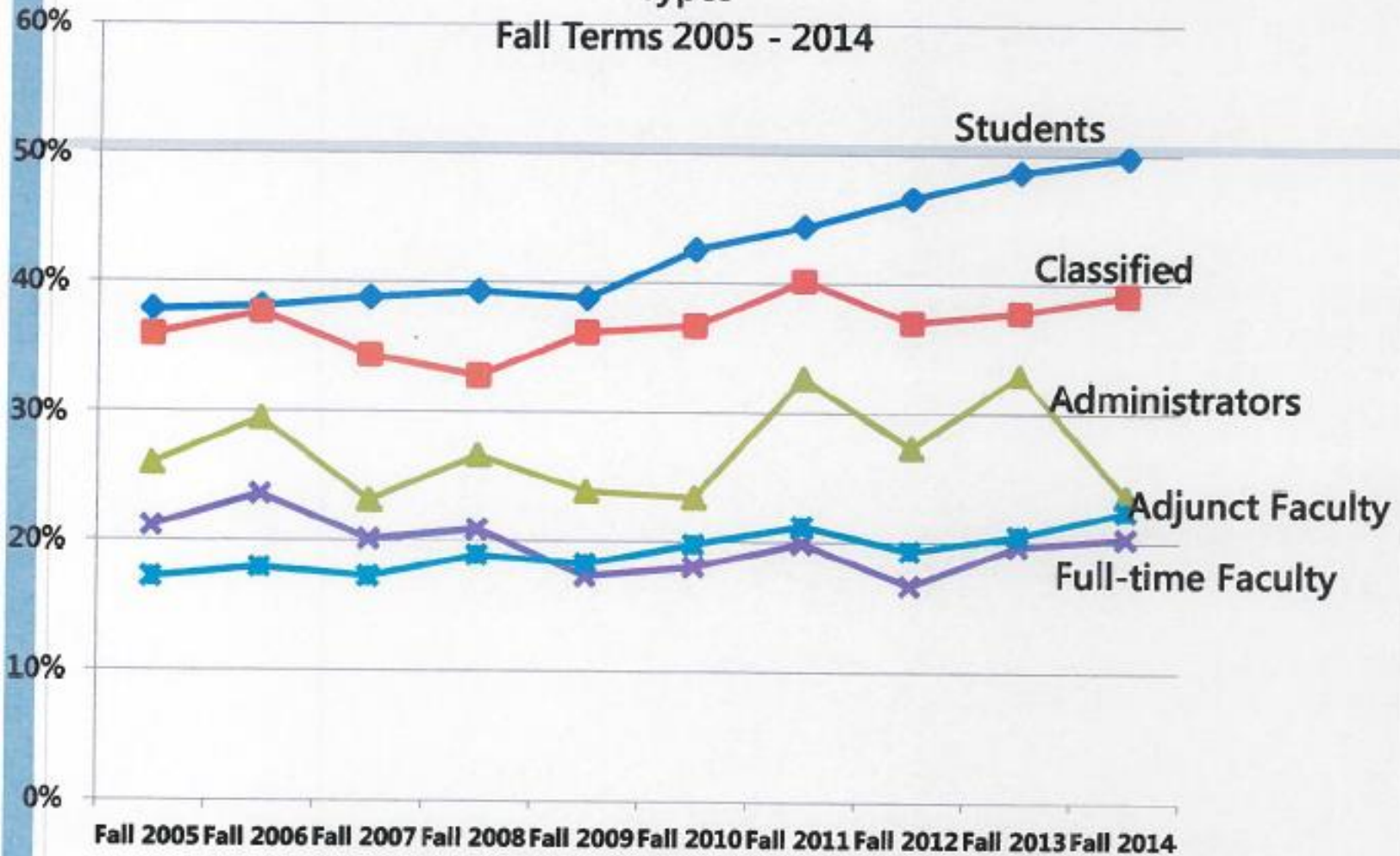
- Advertising/Job Announcements in Media “that provide information in languages other than English and whose primary audience is residents of minority and low-income communities.”
- Job Fairs, Events Drawing Significant Participation By Minorities/Women/economically Disadvantaged.
- Other measures are listed, but list is not exclusive.

Prop 209



Under-Represented Minority* Percentages by Student and Employee Types

Fall Terms 2005 - 2014



* Under-Represented Minority: Black, Hispanic, Native American, and Pacific Islander.

HR's Role

- Monitor the hiring process to ensure that no candidate is unlawfully discriminated against.
- Ensure full participation of all Committee members.
- Stop the process if appropriate!
- Reinitiate recruitment if necessary.



Protected Classifications

- Race/Ethnicity/Color
- Religion/Creed
- National Origin/Ancestry
- Sexual Orientation
- Age, Gender or Gender Identification
- Disability/Medical Status/Pregnancy
- Marital Status
- Military and Veteran Status



Pre-Employment Inquiries

Personal questions related to the following should not be asked:

- ANY Protected Classification
- Political Affiliation

Candidates with Disabilities

- It is unlawful to ask an applicant questions about his/her disability before a job offer is made. Even if the Committee becomes aware of an applicant's disability during the hiring process, the Committee may not ask about its nature or severity. These questions can only be asked after a job offer is made.
- The appropriate approach:
 - **WRONG:** “Can a blind person do this?”
 - **RIGHT:** “Can you perform the functions required for this position with or without reasonable accommodation?”
- **Interactive Process**



EEO/Questions from Candidates

- If candidates ask questions of the Committee, responses to these inquiries need to be consistent from candidate to candidate.
- If a candidate asks you, as a member of the committee, a question about the process outside of the interview, politely refer them to Human Resources.

Guidelines for Conduct

Every member of the committee should hear the same discussion.

Guidelines for Conduct

- During Screening and Interviewing:
 - Do not advocate for a candidate.
 - Do not voice opinions against candidates.
 - NEVER collaborate to develop individual scores.
- Advocacy and expression of opinions occurs appropriately within the context of considering the final scores and determining which candidates to forward (or not forward) to the next level in the process.

Guidelines for Conduct

- Committees are to consider and rate only the information gathered in the application review and interview processes.
- Never share *personal* or *professional* experiences involving candidates.
- Never share information acquired about candidates from other sources (Google, etc).
- This can create bias and influence the judgments of other Committee members.
- You also subject yourself to personal liability.
- Reference checks will be conducted at a later stage in the process.

Unconscious Bias

- ən- 'kän(t)-shəs: not consciously realized, planned or done; without conscious volition or intent
- bī-əs: a particular tendency or inclination, especially one that prevents unprejudiced consideration of a question; prejudice

Unconscious Bias

- Many people feel most comfortable interacting with others that are just like themselves.
- “Good Fit”
 - Name
 - Residence
 - Schools Attended
 - Previous Employers
- Interviews
 - Dress
 - Speech
 - Time Taken Answering Questions
 - Physical Appearance

Unconscious Bias

- Advantage of committees
 - Constituent Groups
 - Personal Perspectives
 - Variety of needs, values and frames of reference
 - Collective wisdom

Tips

- Develop ground rules for how you will raise contentious issues and handle disagreements
- Keep deliberations about candidates “skill-based” rather than “feeling-based”
- Be cautious of phrases such as “I just don’t like him/her” or “I don’t think s/he is a good fit”
- Concerns about “fit” should be viewed with caution. First level interviews are intended primarily to assess skill level.

“Starter Phrases”

- “Starter phrases”
 - “Does anyone else share my concern?”
 - “I’d just like to throw this out there.”
 - “Can we discuss/consider....?”
 - “Can you tell me again why you rated this candidate so low?”
 - “Am I missing something about the qualifications of this candidate that makes them unqualified?”
 - “My understanding is that we are screening for qualifications, not fit.”

Developing Screening Criteria

- Every application must be screened by every member of the committee. A cutoff, based on the cumulative scores, must be used to determine who is invited for interview.
- If the committee will interview all candidates, then paper-screening is not required.
- The Committee will screen applicants based on qualifications that reflect the desirable qualifications, ability to perform duties in the position announcement, and qualifications that exceed the minimum.



Guidelines for Screening of Applications

- Do not copy, forward or share application materials.
- Do not discuss applicants with anyone (including other committee members) until all screening is completed.
- Use the rating key developed by the committee and apply the screening criteria fairly and consistently among all applicants.
- Maintain confidentiality of all applications.
- No extraneous comments on materials.

Make Every Question Count

- Every interviewee must be scored by every member of the committee. A cutoff, based on the cumulative scores, must be used to determine who is forwarded for final interviews.
- Questions should require the candidate to draw from their present and past experience.
- Interview questions are to be job related only. Ask for specific examples.
- Ask questions that require a candidate to really think about their answer and that elicit narrative responses.
- Remember to address any conditions in the work environment that may create challenges.



Demonstrations and Practical Exercises

- Notify candidates in advance.
- Reasonable Accommodation.
- Establish Scoring Rubric.



• QUESTIONS ?

Understanding and Preventing Harassment and Discrimination in the Workplace

David Betts, M.S., SPHR

Human Resources

Chabot-Las Positas Community College District



“We know you hire for skills and fire for behavior—in the work world. And so, we have to make sure...adults know the social codes, the social norms of working in an organization...”

- Gerald Chertavian (60 Minutes, January 26, 2014)

AGENDA

- ▶ Overview:
 - Sources of Law
 - Key Definitions
- ▶ What is Prohibited
- ▶ Consequences
- ▶ Prevention:
 - Harassment/ Discrimination
- ▶ Retaliation
- ▶ Incivility
- ▶ Bullying

SOURCES OF LAW

- ▶ Title VII, Civil Rights Act of 1964
- ▶ Americans with Disabilities Act (ADA)
- ▶ Age Discrimination in Employment Act (ADEA)
- ▶ CA Fair Employment and Housing Act (FEHA)
- ▶ Education Code
- ▶ Title IX, Education Amendments of 1972
- ▶ Our District's policies against harassment and discrimination

PROTECTED CLASSIFICATIONS

PROTECTED CLASSIFICATIONS

RELIGIOUS CREED

MARITAL STATUS

RACE/NATIONAL ORIGIN/ANCESTRY/COLOR

DISABILITY/MEDICAL CONDITION

GENETIC INFORMATION

SEX (GENDER, PREGNANCY, GENDER
EXPRESSION, GENDER IDENTITY, ETC.)

SEXUAL ORIENTATION

AGE

OPPOSITION TO HARASSMENT

ASSOCIATION/PERCEPTION

CASE STUDY

Amanda is a campus police officer who has told everyone she is three months pregnant. The Police Chief wants to transfer Amanda out of the Police Department into another department at the college. Amanda says that she does not want to transfer.

Is it discrimination for the Chief to transfer Amanda against her wishes?

DISCRIMINATION & PREJUDICE

- ▶ Discrimination is the treatment of other individuals differently because of:
 - A protected classification
 - A perception that a protected classification is present
- Prejudice is adverse judgment or opinion formed beforehand or without knowledge or examination of the facts. (*to pre-judge*)
- Ethnocentrism is judging another culture solely by the values and standards of one's own culture.

HARASSMENT

- ▶ Conduct that is:
 - Physical
 - Verbal
 - Visual
- ▶ Taken “because of” a protected classification
- ▶ Two types of Harassment:
 - Quid Pro Quo
 - Hostile Work Environment

“QUID PRO QUO”

- ▶ Job Benefits Promised;
- ▶ Explicitly or Implicitly;
- ▶ In Exchange for:
 - Sexual Favors; or
 - Denied if Sexual Favors are Not Given
- ▶ Quid pro quo harassment can be directed at either the same gender or the opposite gender.

“HOSTILE WORK ENVIRONMENT”

- ▶ Protected Classification
- ▶ Physical, Verbal or Visual Conduct
- ▶ Objectively and Subjectively Offensive (Unwelcome)
- ▶ Severe or Pervasive
- ▶ Unreasonably interferes with work

CASE STUDY

John has requested a new smart phone from Colette, the IT Manager. Colette harbors secret fantasies about having a sexual relationship with John. Colette issues John the smart phone without requiring him to follow the normal process.

Did Colette violate the prohibition against quid pro quo harassment?

Would your answer be different if....?

Who Does this Apply to?

- ▶ Co-Workers
- ▶ Non-Employees
 - ▶ Vendors
 - ▶ Students
 - ▶ Customers
 - ▶ Supervisors
 - ▶ Managers

Sexual Harassment of a Student

- ▶ Any sexual advance, any request for sexual favors or other verbal or physical conduct of a sexual nature when:
 - (a) submission to such advances, requests or conduct is made either explicitly or implicitly a term or condition of a student's employment or academic experience; or,
 - (b) submission to or rejection of such advances, requests or conduct is used as a basis or condition for academic decisions, involvement in student activities and programs, or student employment or externship opportunities; or,
 - (c) such conduct interferes with the academic, student activity or employment performance of a student because it has created an intimidating, hostile or offensive environment.

FACTS

- ▶ Disparity of Power
- ▶ Victim doesn't have to suffer economically
- ▶ Person who consents may still be a victim
- ▶ Third person can be victim of harassment
- ▶ Does not have to be reported to be harassment
- ▶ Can a single incident or comment be considered harassment and grounds for termination?
- ▶ Harasser and employer may be personally liable for damages.

VERBAL CONDUCT

- ▶ Sexual Comments
- ▶ Jokes **[Even about protected classification(s) that pertain to you!]**
- ▶ Mocking Accent
- ▶ Teasing
- ▶ Slurs

CASE STUDY

Mary recently turned 65 and often makes jokes about how she is an “old hag,” or an “old timer.” Mary’s supervisor, Dianne, laughs at these jokes and also makes jokes of her own about aging. One day, Mary complained that Dianne is harassing her because of her age.

What problems are presented here?

VISUAL CONDUCT



Posters
Calendars
Magazines

Emails



Racial or Religious
Cartoons



Gestures



Staring / Leering

Sexual Conduct /
Affection between other
employees at work



PHYSICAL CONDUCT

Massage



Hugs



Physical Intimidation



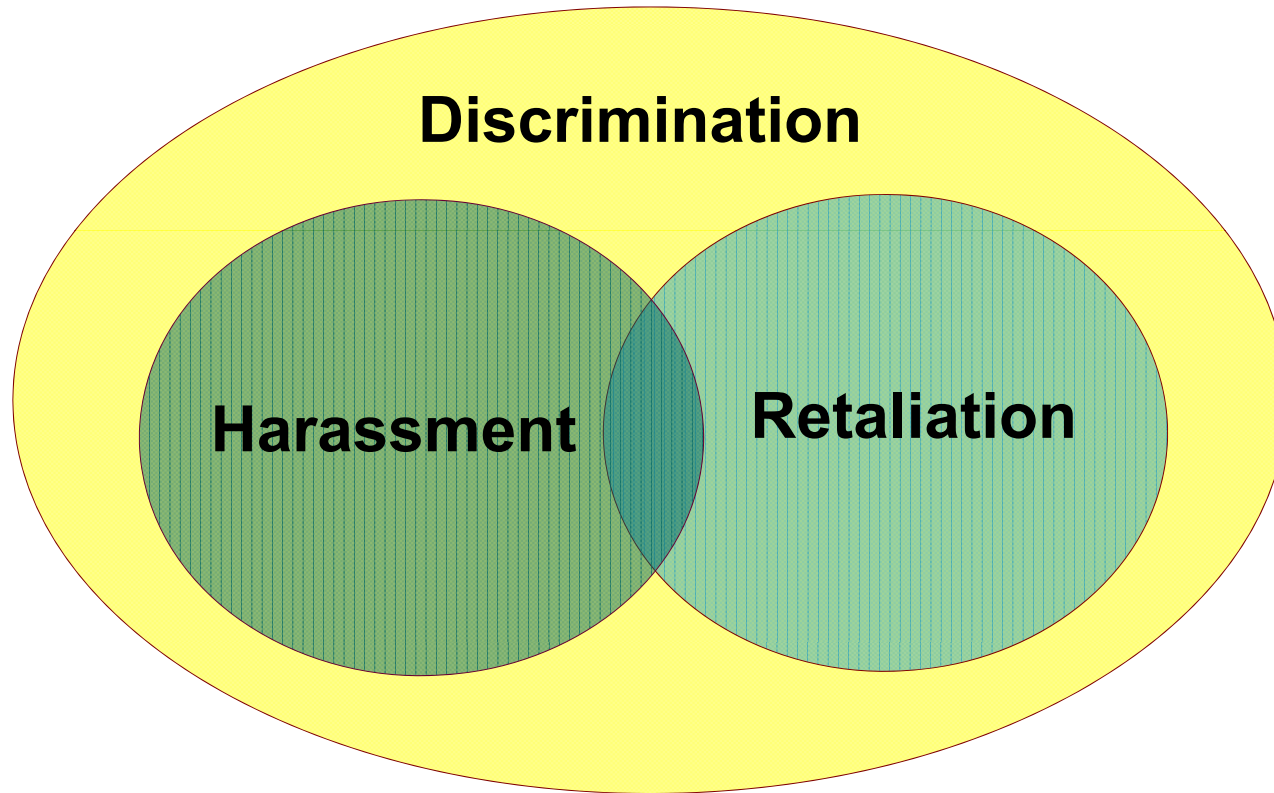
“GRAY” (BORDERLINE) AREAS

- ▶ “Private” and “consensual” relationships between supervisors and subordinates? (*Warning:* Not for long!)
- ▶ Invitations to lunch, drinks or dinner
- ▶ References to appearance or dress
- ▶ “Casual” touching of non-intimate parts of the body

RETALIATION

- ▶ Protected Activity – Broad Standard
 - Reporting discrimination or harassment
 - Participating in an investigation
 - Refusing to follow order reasonably believed to be discriminatory
- ▶ Adverse Action -- Broad Standard
- ▶ Causal Connection

DISCRIMINATION, HARASSMENT and RETALIATION



WHAT IF YOU ARE ACCUSED?

- ▶ Report the accusation to your supervisor and to Human Resources
- ▶ Refrain from any action that could be interpreted as retaliation
- ▶ Seek constructive counseling from Human Resources
- ▶ Cooperate in the investigation
- ▶ Follow your district's policy

INCIVILITY

- ▶ (Latin) “not of a citizen”
- ▶ Behavior creating an atmosphere of disrespect
 - Pettiness, rudeness, profanity, “attitude”
 - Racial, ethnic, religious, orientation slurs
 - Belittling others because of language skills or word choice
 - Personal attacks, lies, nastiness, silent treatment
 - Talking about others behind their backs
 - Inconsiderate behavior

Is this Incivility?

1. Leaving the copier jammed and walking away
2. Eating someone's food/beverage in the fridge
3. Not acknowledging someone's good work
4. Interrupting someone speaking to someone else
5. Leaving a mess in the kitchen or microwave
6. Raising your voice to another employee or student

BULLYING IN THE WORKPLACE

▶ What is it?

- Repeated, unreasonable actions of a Perpetrator (or a group of Perpetrators) directed towards an employee (or group), which are intended to intimidate, degrade, humiliate, or undermine; or which create a risk to the health or safety of the employee(s).
- May involve abuse or misuse of power.
- Creates feelings of defenselessness and injustice for the person(s) targeted, and undermines an individual's right to dignity at work.

BULLYING IN THE WORKPLACE

- ▶ What it is not.
 - A single act of aggression. It is *repeated*.
 - A tough or demanding boss whose motivation is to obtain the best performance by setting high performance and safety standards, and who goes about it in a respectful, professional, and fair manner.

BULLYING IN THE WORKPLACE

- ▶ Bullies require:
 - Secrecy
 - Shame
 - Silent witnesses

- ▶ What is the impact of workplace bullying?
 - Loss of productivity
 - Physical stress
 - Emotional stress
 - Increase in harassment claims

STOPPING BULLIES

- ▶ Pay attention and report
- ▶ Do not ignore or make excuses
- ▶ Do not expect a fellow employee to confront a bully alone
- ▶ Discipline
- ▶ Training

How to Really Get Along With Coworkers, (aka, how *not* to be a bully)

- ▶ Attack the problem, not the person.
- ▶ Look for good in those who are most frustrating.
- ▶ Don't let the “crabs” get you down.
- ▶ Ask, do not accuse – have a friendly conversation to find out what is wrong.
- ▶ Speak to your coworker privately about their actions.



COURTESY
SENSITIVITY
RESPECT

QUESTIONS

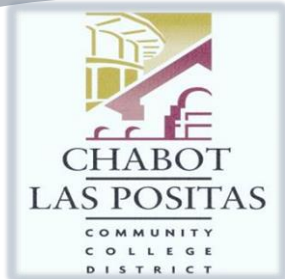
COMMENTS

DISCUSSION

THANK YOU

CLASSIFIED LEADERSHIP INSTITUTE FOR PROFESSIONALS (CLIP)

*BUILDING THE
NEXT GENERATION OF
CLASSIFIED PROFESSIONAL LEADERS*



RECOGNIZING THE NEED



Chabot College



District Office



Las Positas College

*“CLASSIFIED
PROFESSIONALS”*

VS.

“CLASSIFIED STAFF”



CLASSIFIED LEADERSHIP INSTITUTE FOR PROFESSIONALS (CLIP)

We are excited to create a living, growing educational program that will encourage the pursuit of career advancement opportunities available to the Classified Professionals working at :

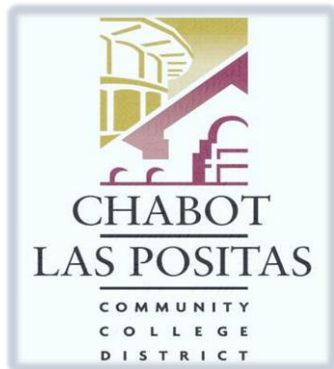
CHABOT-LAS POSITAS COMMUNITY COLLEGE DISTRICT

Along with the strong support of Classified Professionals,
The Chancellor, and Administrators



MISSION

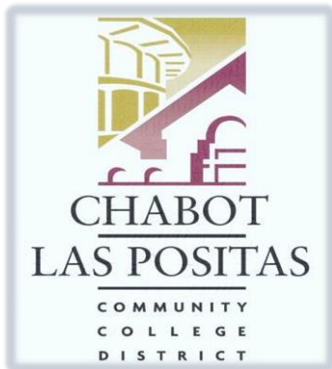
Empower Classified Professionals through the implementation of programs focused on providing professional skills, educational knowledge, and personal growth that supports the goals of our educational community.



VISION

Foster a supportive culture that values individuals and cultivates effective leaders to strengthen *the educational impact of*

Chabot Las Positas Community College District



GOALS

Cultivate professional leaders

Make constant improvements

Encourage community wide involvement

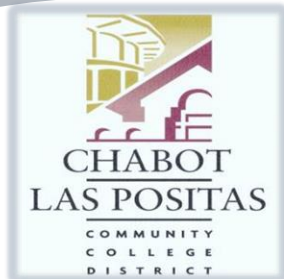
Create networking opportunities

Build a supportive environment

Illuminate leadership skills

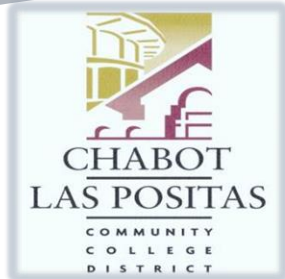
Recognize outstanding service and dedication

Provide guidance and mentoring support



THE BUDGET

Year 1:
Innovation Funds
\$6000



YEAR 1 COHORT MEMBERS

Chabot President –
Chabot Vice President –
Chabot Senator –

Noell Adams
Katrin Field
Rachael Tupper-Eoff

Las Positas President –
Las Positas Secretary –
Las Positas Representative –

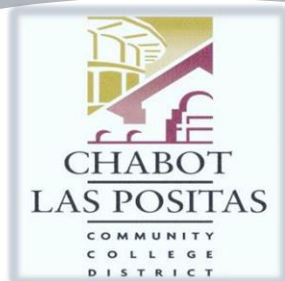
William Eddy
Frances DeNisco
– TBD –

District Co-Presidents –
District Representative –

Joanne Bishop and
Pedro Ruiz de Castilla
Estella Sanchez

IT Representative –
M&O Representative –

Rachel Ugale
Steve Smalley



LEADERSHIP OUTCOMES

- Development of strong leadership ideals and thinking
- Establishment of supportive networking forums
- Greater participation in shared governance
- Stronger working connections between
Administration, Faculty, and Classified Professionals
- Enhanced community collaboration and partnerships
- Improved performance and productivity
- Exposure to current professional skills and knowledge
- Improved understanding of College/District specific practices, procedures, and policies
- Evaluation and continuous improvement of the Institutes programing and implementation planning

