

BP 3430 PROHIBITION OF HARASSMENT AND RETALIATION**References:**

Education Code Sections 212.5, 44100, 66250, et seq, 66271.1, 66281.5
66700, 70901 and 72011;
California Code of Regulations, Title 5, Sections 59320, et seq;
Government Code Sections 11135-11139.5, and 12950.1;
Title VII of the Civil Rights Act of 1964, 42 U.S.C.A. Section 2000e;
Title IX, Education Amendments of 1972
Penal Code Section 422.55 and 422.6
Title 20, United States Code, Section 1681
Title 29, United States Code, Section 794
Title 42, United States Code, Sections 6101, 2000d and 12100, 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 actual, perceived or association with others' ethnic group identification, national origin, religion, age, gender, gender identity, gender expression, race, color, ancestry, sexual orientation, physical or mental disability, genetic information, or any characteristic listed or defined in Section 11135 of the government code or any characteristic that is contained in the prohibition of hate crimes set forth in subdivision (a) of Section 422.6 of the Penal Code.

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 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.

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. Retaliation may involve, but is not limited to, the making of reprisals or threats of reprisals, intimidation, coercion, discrimination or harassment following the initiation of an informal or formal complaint. Such conduct is illegal and constitutes a violation of this policy.

Therefore, the District also strictly prohibits retaliation against any individual for filing a complaint, who refers a matter for investigation or complaint, who participates in an investigation, who represents or serves as an advocate for an alleged victim or alleged offender, or who otherwise furthers the principles of unlawful discrimination or harassment.

All allegations of retaliation will be swiftly and thoroughly investigated. If the District determines that retaliation has occurred, it will pursue all measures 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.

The Chancellor shall establish procedures that define harassment and establish reporting procedures for employees, students, and other members of the District community that provide for the investigation and resolution of complaints regarding discrimination and harassment.

Any student or employee who believes that he or 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 "Handling Complaints of Unlawful Discrimination or Harassment". A copy of the procedure is available at <http://www.rccd.edu/administration/board/Pages/BoardPolicies.aspx>, in each College library and all administrative offices in the District. Supervisors are required to report all incidents of harassment and retaliation that come to their attention.

To this end, the Chancellor shall ensure that the institution undertakes at least education and training activities to counter discrimination harassment 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. However, because of their special responsibilities under the law, supervisors will also undergo mandatory training within six (6) months of assuming a supervisory position. 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.

Employees found in violation of this policy may be subject to disciplinary action up to and including termination. Students found in violation of this policy may be subject to disciplinary measures up to and including expulsion.

Date Adopted: February 26, 2008
Revised: November 18, 2008
Revised: September 18, 2012
(Replaces Policies 3110/4110/6110)

AP 3430 PROHIBITION OF HARASSMENT AND RETALIATION

References:

Education Code Sections 212.5, 44100, 66252, and 66281.5;
California Code of Regulations, Title 5 Sections 59320 et seq.;
Government Code Section 12950.1
Title VII of the Civil Rights Act of 1964, 42 U.S.C.A. Section 2000e
Title IX, Education Amendments of 1972;

The District is committed to providing an academic and work environment free of all forms of harassment outlined in Board Policy 3430.

This procedure 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.

RETALIATION

The District strictly prohibits retaliation toward any individual who files a complaint of discrimination and/or harassment, who refers a matter for investigation or complaint, who participates in an investigation, who represents or serves as an advocate for an alleged victim or alleged offender, or who otherwise furthers the principles of unlawful discrimination or harassment.

REPORTING DISCRIMINATION AND/OR HARASSMENT

Incidents of alleged discrimination, harassment or retaliation shall be investigated promptly and equitably through Administrative Procedure 3435, titled "Handling Complaints of Unlawful Discrimination or Harassment." Any concerns or questions shall be immediately reported to the District Compliance Officer:

Lorraine Y. Jones, M.S.W.
Human Resources and Employee Relations
3801 Market Street, Riverside CA 92501
Voice: (951) 222-8039 FAX: (951) 222-8831

TRAINING AND DISSEMINATION OF INFORMATION

District policies and procedures relating to non-discrimination, prohibition of harassment and handling complaints of unlawful discrimination or harassment shall be disseminated to all employees and students.

A summary handout explaining the legal right to file a complaint, the District complaint procedure and process, complainants' appeal rights and complaint contact information shall be distributed annually to all employees and students, and shall be given to any individual raising concerns of discrimination and/or harassment. The handout shall be posted in prominent locations on each campus and in District offices.

The District shall make training available for all employees and students. However, because of their special responsibilities under the law, supervisors (including department chairs) will undergo mandatory training within six months of assuming their position. Update training shall be mandatory for all District administrators, department chairs, managers, and supervisors when the Policy, Procedure or applicable laws substantially change, and they will strive to prevent all forms of harassment. The District will take immediate and appropriate corrective action whenever it is made aware of a suspected violation, whether this information comes from the complainant or a third party.

Copies of all pertinent policies and procedures related to harassment and unlawful discrimination are available at the following District locations:

Office of Diversity, Equity and Compliance, Riverside Community College District Systems Office, (951) 222-8039.

Riverside City College, Bradshaw Building, Student Activities Office, 2nd floor, Rm. 207, (951) 222-8570.

Moreno Valley College: Student Activities Building – Student Activities (951) 571-6105.

Norco College: Student Activities Office – Library Building, 1st Floor, Room 101, (951) 372-7003.

In addition to the above locations, these documents can also be found on the District's website at <http://www.rccd.edu/administration/board/Pages/BoardPolicies.aspx>.

APPLICABLE DEFINITIONS

Harassment – Hostile and/or offensive conduct that is systematic, persistent, unwanted and annoying, includes threats and demands. Gender-based harassment does not necessarily involve conduct that is sexual.

Forms of Harassment:

- Verbal: Hostile or offensive remarks, slurs, jokes, innuendoes, unwelcome flirting or propositions; demands for sexual favors; verbal abuse, threats, or intimidation; or sexist, patronizing, or ridiculing statements that convey derogatory attitudes toward protected bases.
- Physical: Hostile or offensive touching, assault, or physical interference with free movement. Including, 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 based on protected bases. 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: Display or circulation of visual or written material that degrades individuals or groups included in the list of protected bases. Including, but not limited to: posters, cartoons, drawings, graffiti, reading materials, computer graphics, or electronic media transmissions.

Hostile Environment -- Unwelcome and offensive conduct that creates an intimidating and antagonistic environment that unreasonably interferes with an individual's ability to work or learn. 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.

Sexual Harassment -- Unsolicited and unwelcome sexual advances, requests for sexual favors and other verbal, physical or visual conduct of a sexual nature.

CONSENSUAL RELATIONSHIPS

Romantic or sexual relationships between supervisors and employees, or between administrators, faculty or staff members, or with students are strongly discouraged. 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

The District reaffirms its commitment to academic freedom, but recognizes that academic freedom does not permit unlawful discrimination or harassment. To the extent

that these policies and procedures are in conflict with the District's policy on academic freedom, the harassment policies and procedures shall prevail. Nothing in these policies and procedures shall be interpreted to prohibit bona fide academic requirements for a specific District program, course or activity.

It is recognized that an essential function of education is a probing of opinions and an exploration of information and ideas that may cause some students discomfort. It is further recognized that academic freedom insures the faculty's right to teach and the students' right to learn. If a faculty member wishes to use sexually explicit materials in the classroom, the District strongly recommends that faculty member work with the Director of Diversity, Equity and Compliance as well as academic discipline colleagues to assure that sexual harassment regulations are not violated.

When investigating unlawful discrimination or harassment complaints containing issues of academic freedom, the designated investigator will consult with a group of one to three (1-3) faculty members in that subject area appointed by the Academic Senate with respect to contemporary practices and standards for course content and delivery.

FILING A COMPLAINT

Refer to the steps outlined in Administrative Procedure 3435 titled, "Handling Complaints of Unlawful Discrimination or Harassment."

Office of Primary Responsibility: Director, Diversity, Equity and Compliance

Administrative Approval: April 21, 2008

Revised: December 8, 2008

Revised: June 15, 2011

Revised: September 24, 2012

(Replaces current Riverside CCD Regulations 3110/4110/6110 and addendum)