



**Mt. San Antonio College
Human Resources**

1100 N. Grand Ave. ▪ Walnut, CA 91789 ▪ (909) 274-4225

November 18, 2016

ATTENTION: STUDENTS, FACULTY, STAFF, ADMINISTRATORS AND THIRD PARTIES

Annual Notice of Mt. San Antonio Community College District's Policies and Procedures for Providing an Academic and Work Environment Free of Unlawful Discrimination, Harassment and Retaliation

I. POLICY STATEMENT

The Mt. San Antonio Community College District (the District) is committed to providing an academic and work environment free of unlawful discrimination, harassment and retaliation. The District hereby reaffirms its commitment to creating and maintaining an academic and working environment free of all forms of unlawful discrimination, harassment and retaliation.

You are reminded that the District does not condone and will not tolerate any form of unlawful discrimination, harassment or retaliation of and/or by its members. This notification defines unlawful discrimination, harassment (including sexual harassment) and retaliation on campus and identifies the District's Policies and Procedures which set forth a procedure for the investigation and resolution of complaints by or against any employee, student, or third party within the District.

II. DEFINITIONS

Unlawful Discrimination: The denial of benefits or admission to the District or to any of its programs or activities, either academic or nonacademic, curricular or extracurricular, based on perceived or actual race, religion, religious creed, color, national origin, ethnic group identification, ancestry, physical disability, mental disability, sex, gender (including gender identity and gender expression), age, sexual orientation, or any other protected characteristic of any person, or based on the individual's association with a person or group with one or more on these actual or perceived characteristics is illegal and violates District policy.

Unlawful Harassment (Other Than Sexual Harassment): Verbal or physical conduct which has the purpose or effect of creating an intimidating, hostile or offensive academic or work environment or has the purpose or effect of unreasonably interfering with an individual's academic or work performance that disparages or shows hostility or aversion toward any student or employee based on perceived or actual race, religion, religious creed, color, national origin, ethnic group identification, ancestry, physical disability, mental disability, sex, gender (including gender identity and gender expression), age, sexual orientation, or any other protected characteristic of any person, or based on the individual's association with a person or group with one or more on these actual or perceived characteristics is illegal and violates District policy.

The law also protects employees from discrimination and harassment based on medical condition, marital status, pregnancy, military or veteran status, and genetic information. Gender-based harassment does not necessarily involve conduct that is sexual. Any hostile or offensive conduct based on gender can constitute



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prohibited harassment. For example, repeated mocking comments about a person's competency to do their 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, 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.

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 (including postings on social media)

Environmental: A hostile academic or work environment exists where it is permeated by 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 germane to the subject matter of the class or activities on the job. A hostile environment can arise from 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 circumstances, including such factors as the frequency of 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 (a form of unlawful harassment): Sexual harassment consists of unwelcome sexual advances, requests for sexual favors, physical touching, sexual comments of a provocative or suggestive nature, suggestive looks or gestures, sexually explicit jokes, electronic media/communication, printed materials or innuendos intended for and directed to another, and other conduct of a sexual nature when:

- Submission to the conduct is made, either explicitly or implicitly, a term or condition of an individual's employment, academic status or progress;



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- 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 through the District.

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.

Sexually harassing conduct can occur between persons 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.

Unlawful Retaliation

It is unlawful to fire, demote, harass, or otherwise retaliate against applicants or employees for the following reasons:

- filing a charge of discrimination;
- complaining to the District or outside Governmental entity about discrimination or harassment in the academic or work environment;
- participating in a discrimination, harassment proceeding such as an investigation or lawsuit.

The law forbids retaliation when it comes to any aspect of employment, including hiring, firing, pay, job assignments, promotions, transfers, layoffs, training, benefits, and any other terms or conditions of employment.

For students, unlawful retaliation occurs when any unfavorable action is taken, unfavorable condition created, or other action taken by a student or employee for the purpose of intimidation that is directed toward a student because the student initiated an allegation or complaint of unlawful discrimination or harassment or participated in an investigation of alleged unlawful conduct.



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An individual is protected by law from retaliation whether his or her charges are substantiated. This is to preserve and protect the rights of affected individuals, and to encourage reporting of alleged discrimination, harassment and retaliation.

III. POLICIES, PROCEDURES, COMPLAINT FORM

- Board Policy 3410 – Nondiscrimination (Attachment A)
- Board Policy 3430 – Prohibition of Harassment (Attachment B)
- Board Policy 3540 – Sexual and Other Assaults on Campus (Attachment C)
- Administrative Procedure 3410 – Nondiscrimination (Attachment D)
- Administrative Procedure 3430 – Prohibition of Harassment (Attachment E)
- Administrative Procedure 3435 – Discrimination and Harassment Investigations (Attachment F)
- Administrative Procedure 3540 – Sexual Assaults on Campus (Attachment G)
- Unlawful Discrimination Complaint Form (Attachment H)

The District has detailed procedures for filing complaints. If at any time you believe you have experienced or witnessed unlawful discrimination, harassment or retaliation please contact Abe Ali, Vice President, Human Resources at 909.274.4225. or via email at aali@mtsac.edu. The District has identified multiple avenues for submitting complaints of unlawful discrimination.

You may submit complaints to the following individuals:

1. Abe Ali, Vice President Human Resources
2. Dr. Audrey Yamagata-Noji, Vice President Student Services
3. Dr. Irene Malmgren, Vice President Instruction
4. Michael Gregoryk, Vice President Administrative Services

Chapter 3 – 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.; Government Code 12926.1 and 12940, et seq., and Penal Code Section 422.55

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

The College, and each individual who represents the College, 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, military or veteran status, or because he or 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 College President/CEO 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 College funds shall ever be used for membership or for any participation involving financial payment or contribution on behalf of the College 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 or ethnicity, color, medical condition, genetic information, ancestry, sexual orientation, marital status, physical or mental disability, pregnancy, military or veteran status, or because he or she is perceived to have one or more of the foregoing characteristics or because of his or her association with a person or group with one or more of these actual or perceived characteristics.

Approved: April 28, 2004

Revised: April 26, 2006

Revised: November 15, 2006

Revised: January 23, 2013

Revised: September 10, 2014

Reviewed: June 9, 2015

Reviewed: August 17, 2016

Chapter 3 – General Institution

BP 3430 Prohibition of Harassment

References:

Education Code Sections 212.5; 44100, 66252; 66281.5; Government Code Section 12950.1; Title VII of the Civil Rights Act of 1964, 42 U.S.C.A. § 2000e.

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 College is committed to providing an academic and work environment that respects the dignity of individuals and groups. The College 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, religious creed, color, national origin, ancestry, physical disability, mental disability, mental condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, military status, or veteran status of any person, or because he or she is perceived to have one or more of the foregoing characteristics.

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 delineated in the Administrative Regulations and Procedures. Supervisors are mandated to report all incidents of harassment and retaliation that come to their attention.

The College 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 College 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 College 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.

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.

To this end, the College President/CEO shall ensure that the institution undertakes education activities and training 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 College President/CEO shall establish procedures that define harassment on campus. The College President/CEO 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 College, 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.

Approved: April 28, 2004

Revised: April 20, 2005

Revised: February 27, 2013

Reviewed: May 6, 2014

Revised: December 10, 2014

Reviewed: June 9, 2015

Chapter 3 – General Institution

BP 3540 Sexual and Other Assaults on Campus

References:

Education Code Sections 67382 and 67385; 34 C.F.R. § 668.46(b)(11); Penal Code Section 240

Mt. San Antonio College is committed to creating and maintaining an environment that promotes safety and mutual respect of all members of the campus community. Mt. SAC is further committed to being proactive in the prevention of sexual assault or acquaintance rape, to apprehend and discipline assailants when rape or any other sexual assault crimes occur on campus property or at College-sponsored events.

Sexual assault is defined as an unlawful attempt, coupled with a present ability, to commit a violent injury on the person of another; assault with the intent to commit mayhem, rape, sodomy, oral copulation, rape in concert with another; and lascivious acts upon a child, or penetration of genitals or anus with a foreign object (Penal Code Section 240).

Rape, including date rape, is a violation of the College Standards and Rules of Student Conduct and California criminal statutes. Such acts are completely unacceptable at Mt. San Antonio College.

Any sexual assault or physical abuse, including, but not limited to, rape, as defined by California law, whether committed by an employee, student, or member of the public, that occurs on College property, is a violation of College policies and procedures, and is subject to all applicable punishment, including criminal procedures and employee or student discipline procedures. Students, faculty, and staff who may be victims of sexual and other assaults shall be treated with dignity and provided comprehensive assistance. The College President/CEO shall establish administrative procedures that ensure that students, faculty, and staff who are victims of sexual and other assaults receive appropriate information and treatment, and that educational information about preventing sexual violence is provided and publicized as required by law. The procedures for sexual assaults shall meet the criteria contained in EC 67385, 67385.7, and 34 C.F.R. § 668.46.

Approved: April 28, 2004

Revised: April 26, 2006

Revised: November 15, 2006

Reviewed: May 14, 2013

Reviewed: December 16, 2014

Reviewed: June 9, 2015

Reviewed: August 17, 2016

Chapter 3 - General Institution

AP 3410 Nondiscrimination

References:

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.; and Accreditation Standard-II.B.2.c

Education Programs

The College shall provide access to its services, classes, and programs without regard to race or ethnicity, religious creed, color, national origin, ancestry, physical disability, mental disability, pregnancy, medical condition, marital status, sex (gender), age, sexual orientation, military status, or veteran status, or the perception that a person has one or more of these characteristics.

All courses, including noncredit classes, shall be conducted without regard to the gender of the student enrolled in the classes.

The College 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 managers, shall not offer program guidance to students which differs on the basis of gender.

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

Nondiscrimination References for Employment

Education Code Sections 87100 et seq.; Government Code Sections 11135 et seq. and 12940 et seq.; and Title 5 Sections 53000 et seq.

Employment

The College shall provide equal employment opportunities to all applicants and employees regardless of race or ethnicity, religious creed, color, national origin, ancestry, physical or mental disability, pregnancy, medical condition, marital status, sex (gender), age, sexual orientation, military status, or veteran status, or the perception that a person has one or more of these characteristics.

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 College's needs.

All College employees are encouraged to be involved in the active promotion of diversity in employment, including recruitment.

The College shall, as necessary, provide professional and staff development activities and training to promote understanding of diversity.

Reviewed: June 25, 2013

Revised: March 26, 2014

Revised: September 10, 2014

Reviewed: June 9, 2015

Reviewed: August 17, 2016

Chapter 3 - General Institution

AP 3430 Prohibition of Harassment

References:

Education Code Sections 212.5, 44100, and 66281.5; Government Code Section 12940; 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. § 2000e

The College 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 and sets forth a procedure for the investigation and resolution of complaints of harassment by or against any staff or faculty member or student within the College.

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

Definitions

General Harassment: Harassment based on race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, military status, or veteran status of any person, or the perception that a person has one or more of these characteristics, is illegal and violates College policy. Gender-based harassment does not necessarily involve conduct that is sexual. Any hostile or offensive conduct based on gender can constitute prohibited 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, 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, disability, 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; or 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, disability, or other protected status.

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, disability, 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, disability, or other protected status; or gratuitous comments regarding gender, race, sexual orientation, disability, 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, disabilities, or other protected statuses. An environment may also be hostile toward anyone who merely witnesses unlawful harassment in his or her immediate surroundings, although the conduct is directed at others. A final scenario for a hostile work environment is one in which behaviors are directed at specific individuals for the purpose of aggressively humiliating, belittling, and/or ridiculing them. 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: 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, internship, or volunteer activity;
- 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 working conditions, employment or enrollment status, benefits and services, 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 or specific attributes, 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 would perceive the environment as hostile.

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.

Consensual Relationships

Romantic or sexual relationships between supervisors and employees or between managers, 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 manager, 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 College 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 College 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 College'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 the Department Chairperson and Division Dean who may consult with the Human Resources Office to determine whether or not this violates the sexual harassment policy.

Sexual Harassment Training

By January 1, 2006, Mt. San Antonio College shall provide at least two hours of classroom or other effective interactive training and education regarding sexual harassment to all supervisory employees who are employed as of July 1, 2005. All new supervisory employees must be provided with the training and education within six months of their assumption of a supervisory position. After January 1, 2006, Mt. San Antonio College shall provide sexual harassment training and education to each supervisory employee once every two years.

The training and education required by this procedure shall include information and practical guidance regarding the Federal and State statutory provisions concerning the prohibition against and the prevention and correction of sexual harassment and the remedies available to victims of sexual harassment in employment. The training and education shall also include practical examples aimed at instructing supervisors in the prevention of harassment, discrimination, and retaliation and shall be presented by trainers or educators with knowledge and expertise in the prevention of harassment, discrimination, and retaliation.

Training of all staff will be conducted. Training for academic staff should emphasize environmental harassment in the classroom.

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

A training program or informational services will be made available to all students at least once annually. The student training or informational services shall include an explanation of the policy, how it works, and how to file a complaint.

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

Revised: September 10, 2014

Reviewed: June 9, 2015

Revised: February 10, 2016

Chapter 3 - General Institution

AP 3435 Discrimination and Harassment Investigations

References:

Education Code Section 66281.5; Government Code 12950.1; Title 5 Sections 59320, 59324, 59326, 59328; and 59300 et seq.; 34 C.F.R. Section 106.8(b)

Filing a Timely Complaint

The College strongly encourages employees and students who believe they are being harassed or discriminated against to file a complaint within 30 days of the alleged incident. All supervisors and managers have a mandatory duty to report incidents of harassment and discrimination; the existence of a hostile, offensive or intimidating work environment, and acts of retaliation.

Communicating that the Conduct is Unwelcome

The College further encourages students and staff to let the offending person know immediately and firmly that the conduct or behavior is unwelcome, offensive, in poor taste and/or inappropriate.

Oversight of Complaint Procedure

The Chief Human Resources Officer, or his/her designee, is the "responsible College officer" charged with receiving complaints of discrimination or harassment, and coordinating their investigation.

The actual investigation of complaints may be assigned to the Chief Human Resources Officer, or his/her designee, to other staff or to outside persons or organizations under contract with the College. This shall occur whenever the Chief Human Resources Officer, or his/her designee, is named in the complaint or implicated by the allegations in the complaint.

Where to File a Complaint

A student or employee who believes he or she has been discriminated against or harassed in violation of the College's policy and procedures may make a complaint orally or in writing, within one year of the date of the alleged harassment or the date on which the complainant knew or should have known of the facts underlying the complaint.

If a complainant decides to file a formal written unlawful discrimination or harassment complaint against the College, he or she must file the complaint on a form prescribed by the Chancellor's Office of the California Community Colleges. These approved forms are available from the Chief Human Resources Officer or his /her designee and at the following URL: www.cccco.edu/divisions/legal/discrimination/discrimination.htm

The completed form must be filed with any of the following:

the Chief Human Resources Officer, or his/her designee;

(identify others, including the Chief Student Services Officer, the Administrative Services/Risk Management Office (?), and College President/CEO); and/or

the Chancellor's Office of the California Community Colleges.

Employee complainants shall be notified that they may file employment discrimination complaints with the U.S. Equal Employment Opportunity Commission (EEOC) or the Department of Fair Employment and Housing (DFEH) and complaints filed with the EEOC and/or the DFEH should be forwarded to the Chancellor's Office of the California Community Colleges. Any College employee who receives a harassment complaint shall notify the Chief Human Resources Officer, or his/her designee, immediately.

Intake and Processing of the Complaint

Upon receiving notification of a harassment or discrimination complaint, the Chief Human Resources Officer, or his/her designee, shall:

- Undertake efforts to uniformly resolve the charges, including but not limited to mediation, rearrangement of work/academic schedules, obtaining apologies, providing informal counseling and/or training, etc.;
- Advise the complainant that he or she need not participate in an informal resolution of the complaint, as described above, and that he or she may file a complaint with the Office of Civil Rights of the U.S. Department of Education. The Chief Human Resources Officer, or his/her designee, shall also notify the Chancellor's Office of the California Community Colleges of the complaint.
- Authorize the investigation of the complaint, and supervise and/or conduct a thorough, prompt and impartial investigation of the complaint, as set forth below. Where complainants opt for informal resolution, the designated officer will determine whether further investigation is necessary to ensure resolution of the matter and utilize the investigation process outlined below as appropriate. In the case of a formal complaint, the investigation will include interviews with the complainant, the accused, and any other persons who may have relevant knowledge concerning the complaint. This may include victims of similar conduct.
- Review the factual information gathered through the investigation to determine whether the alleged conduct constitutes harassment, or other unlawful discriminatory conduct, giving consideration to all factual information and the totality of the circumstances, including the nature of the verbal, physical, visual or sexual conduct, and the context in which the alleged incidents occurred.

- Set forth the results of the investigation in a written report. The written report shall include a description of the circumstances giving rise to the complaint, a summary of the testimony of each witness, an analysis of any relevant data or other evidence collected during the investigation, a specific finding as to whether discrimination did or did not occur with respect to each allegation in the complaint, and any other appropriate information.
- Provide the complainant and accused with a copy or summary of the investigative report within ninety days from the date the College received the complaint. The complainant and accused shall also be provided with a written notice setting forth the determination of the Chief Human Resources Officer, or his/her designee, as to whether harassment or other discriminatory conduct did or did not occur with respect to each allegation in the complaint; a description of action taken, if any, to prevent similar problems from occurring in the future; the proposed resolution of the complaint; and notice of the parties' rights to appeal to the College's Board of Trustees and the Chancellor's Office of the California Community Colleges. The results of the investigation and the determination as to whether harassment or other discriminatory conduct occurred shall also be reported to the accused, and the appropriate academic or administrative official(s). Reports to the complainant shall be prepared so as not to violate any applicable privacy rights of the accused.

Investigation of the Complaint

The College shall promptly investigate every complaint of harassment or discrimination. No claim of workplace or academic harassment or discrimination shall remain unexamined. As set forth above, where the complainant opts for an informal resolution, the Chief Human Resources Officer, or his/her designee, may limit the scope of the investigation as appropriate. The College will keep the investigation confidential to the extent possible, but cannot guarantee absolute confidentiality because release of some information on a "need-to-know-basis" is essential to a thorough investigation.

Investigation Steps: The College will fairly and objectively investigate harassment and discrimination complaints utilizing the following steps: interviewing the complainant(s); interviewing the accused individual(s); identifying and interviewing witnesses, if any; reminding all individuals interviewed of the College's no-retaliation policy; considering whether any involved person should be removed from the campus pending completion of the investigation; reviewing personnel/academic files of all involved parties; reach a conclusion as to the allegations and any appropriate disciplinary and remedial action; and see that all recommended action is carried out in a timely fashion.

Timeline for Completion: The College will undertake its investigation promptly and as swiftly as possible. To that end, the investigator shall complete the above steps, and prepare a written report within 90 days of the College receiving the complaint.

Cooperation Encouraged: All employees are expected to cooperate with a College investigation into allegations of harassment or discrimination. Lack of cooperation impedes the ability of the College to investigate thoroughly and respond effectively. However, lack of cooperation by a complainant or witnesses does not relieve the College of its obligation to investigate. The College will conduct an investigation if it is discovered that harassment is, or may be occurring, with or without the cooperation of the alleged victim(s) and regardless of whether a complaint is filed.

Discipline and Corrective Action

If harassment, discrimination, and/or retaliation occurred in violation of the policy or procedure, the College shall take disciplinary action against the accused and any other remedial action it determines to be appropriate. The action will be prompt, effective, and commensurate with the severity of the offense. If discipline is imposed, the nature of the discipline will not be communicated to the complainant.

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

The College shall also take reasonable steps to protect the complainant from further harassment and/or discrimination and to protect the complainant and witnesses from retaliation as a result of communicating the complaint and/or assisting in the investigation. The College shall take reasonable steps to ensure the confidentiality of the investigation and to protect the privacy of all parties to the extent possible without impeding the College's ability to investigate and respond effectively to the complaint.

Appeals

If the complainant is not satisfied with the results of the administrative determination, he or she may, within 15 days, submit a written appeal to the Board of Trustees. The Board of Trustees shall review the original complaint, the investigative report, the administrative decision, and the appeal. The Board of Trustees shall issue a final College decision in the matter within 45 days after receiving the appeal. A copy of the decision rendered by the Board of Trustees shall be forwarded to the complainant and to the Chancellor's Office of the California Community Colleges. The complainant shall also be notified of his or her right to appeal this decision.

If the Board of Trustees does not act within 45 days, the administrative determination shall be deemed approved and shall become the final decision of the College in the matter.

The complainant shall have the right to file a written appeal with the Chancellor's Office of the California Community Colleges within 30 days after the Board of Trustees issues the final College decision or permits the administrative decision to become final. Such appeals shall be processed pursuant to the provision of Section 59350 of Title 5 of the California Code of Regulations.

In any case involving employment discrimination, including workplace harassment, the complainant may, at any time before or after the issuance of the final decision of the College, file a complaint with the Department of Fair Employment and Housing. In such cases, the complainant may also file a petition for review with the Chancellor's Office of the California Community Colleges within 30 days after the governing board issues the final decision or permits the administrative decision to become final.

Within 150 days of receiving a formal complaint, the College shall forward to the Chancellor's Office of the California Community Colleges the original complaint, the investigative report, a copy of the written notice to the complainant setting forth the results of the investigation, a

copy of the final administrative decision rendered by the Board of Trustees or indicating the date upon which the decision became final, and a copy of the notification to the complainant of his or her appeal rights. If, due to circumstances beyond its control, the College is unable to comply with the 150-day deadline for submission of materials, it may file a written request for an extension of time no later than ten days prior to the expiration of the deadline.

Dissemination of Policy and Procedures

College Policy and Procedures related to harassment will be provided to all students, faculty members, members of the administrative staff and members of the support staff, and will be posted on campus.

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

Reviewed: June 25, 2013

Reviewed: December 6, 2014

Reviewed: June 9, 2015

Reviewed: August 17, 2016

Chapter 3 - General Institution

AP 3540 Sexual Assaults on Campus

References:

Education Code Section 67385; 20 U.S. Code Section 1092(f); 34 Code of Federal Regulations Part (b)(11)

Any sexual assault or physical abuse, including, but not limited to, rape, as defined by California law, whether committed by an employee, student, or member of the public, occurring on College property, or on an off-campus site or facility maintained by the College, or on grounds or facilities maintained by a student organization, is a violation of College policies and regulations, and is subject to all applicable punishment, including criminal procedures and employee or student discipline procedures (also see AP 5500 - Standards of Student Conduct).

“Sexual assault” includes, but is not limited to, rape, forced sodomy, forced oral copulation, rape by a foreign object, sexual battery, or threat of sexual assault. These written procedures and protocols are designed to ensure victims of sexual assault receive treatment and information. All students or employees, who allege that they are the victims of sexual assault on College property shall be provided with information regarding options and assistance available to them. Information shall be available from the Public Safety Department or the Student Health Center, which shall maintain the identity and other information about alleged sexual assault victims as confidential unless and until College officials are authorized to release such information.

The College official managing the incident shall provide all alleged victims of sexual assault with the following, upon request:

- A copy of the College's Board Policy and Administrative Procedure regarding sexual assault;
- Following is a list of personnel on campus who should be notified of the assault and procedures for such notification, if the alleged victim consents:
- (The order of response will depend upon the first person notified of the incident. Generally, the response will proceed in this manner.)

Step 1 The individual initially notified about a sexual assault will report the assault to the Mt. SAC Public Safety Department. Anonymous records of the report will be kept for statistical purposes by the Mt. SAC Public Safety Department.

Step 2 Public Safety staff members will make an initial assessment of the condition of the victim and scene of assault. Care will be taken to secure all clothing, potential articles of evidence, and to assure that the victim does not wash hands or any other body parts. 911 will be called if emergency treatment is needed.

Step 3 Public Safety staff members will notify local law enforcement, Student Health Services, and immediate supervisor.

Step 4 During Student Health Services operating hours, the victim will be transported by Public Safety to Student Health Services for immediate medical attention.

Step 5 The Director, Health Services and the Chief Student Services Officer will be notified of all sexual assaults.

Step 6 The Director, Student Health Services will assure that:

1. the victim receives information on sexual assault;
2. notify family or friends as requested by the victim; and
3. notify community/health agencies who will arrange a rape counselor to accompany the victim through hospital procedures, encounters with law enforcement agencies and future court appearances.

Step 7 Director, Student Health Services and the Chief Student Services Officer will:

1. notify appropriate College officials;
2. offer academic support and counseling;
3. track victim's academic progress and assist when requested;
4. initiate appropriate disciplinary action against perpetrator;
5. inform victim of status of disciplinary actions within 72 hours without disclosing identity of perpetrator.

Step 8 Public Information Officer will:

Interface with media, general public, students, and staff (specific details of the assault will be released only when essential to the health and safety of the individual assaulted or that of other members of the campus community).

Response to sexual assault cases reported more than 72 hours after the assault: If more than 72 hours have elapsed since the sexual assault, the victim will be referred to Student Health Services. The Director, Student Health Services will notify the Director, Public Safety and assure that appropriate follow-up care and services are provided as needed.

Response to sexual assault cases involving College employees as victims: aforementioned procedures apply to employees of the College who have been sexually assaulted with the exception of Step 12, which is changed to read as follows:

Step 9 Chief Human Resources Officer will:

1. Notify the Mt. SAC President's Office of the circumstances. Respect for the victim's right to confidentiality will be observed;
2. Explain Mt. SAC disciplinary procedures;
3. Offer support and counseling;
4. Track work performance and assist when requested;
5. Initiate disciplinary action, as appropriate, against perpetrator.

All alleged victims of sexual assault on College property shall be kept informed, through the Mt. SAC Public Safety Department of any ongoing investigation. Information shall include the status of any student or employee disciplinary proceedings or appeal; alleged victims of sexual assault are required to maintain any such information in confidence, unless the alleged assailant has waived rights to confidentiality.

The College shall maintain the identity of any alleged victim or witness of sexual assault on College property, as defined above, in confidence unless the alleged victim or witness specifically waives that right to confidentiality. All inquiries from reporters or other media representatives about alleged sexual assaults on College property shall be referred to the College's Public Information Officer, which shall work with College officials to assure that all confidentiality rights are maintained.

Additionally, the Annual Security Report will include a statement regarding the College's programs to prevent sex offenses and procedures that should be followed after a sex offense occurs. The statement must include the following:

- a description of educational programs to promote the awareness of rape, acquaintance rape, and other forcible and non-forcible sex offenses;
- procedures to follow if a sex offense occurs, including who should be contacted, the importance of preserving evidence to prove a criminal offense, and to whom the alleged offense should be reported;
- information on a victim's option to notify appropriate law enforcement authorities, including on-campus and local police, and a statement that campus personnel will assist the victim in notifying these authorities, if the victim so requests;
- information for victims about existing on- and off-campus counseling or other services for victims of sex offenses;
- notice that the campus will change a victim's academic situation after an alleged sex offense and of the options for those changes, if those changes are requested by the victim and are reasonably available;
- procedures for campus disciplinary action in cases of an alleged sex offense, including a clear statement that:
 - The accuser and the accused are entitled to the same opportunities to have others present during a disciplinary proceeding; and
 - Both the accuser and the accused must be informed of the outcome of any institutional disciplinary proceeding resulting from an alleged sex offense. Compliance with this paragraph does not violate the Family Educational Rights and Privacy Act. For the purposes of this paragraph, the outcome of a disciplinary proceeding means the final determination with respect to the alleged sex offense and any sanction that is imposed against the accused; and
- a description of the sanctions the campus may impose following a final determination by a campus disciplinary proceeding regarding rape, acquaintance rape, or other forcible or non-forcible sex offenses.

Education and Prevention Information

- The Public Safety Department in cooperation with the Student Health Services Office shall provide, as part of the College's established on-campus orientation program, education and prevention information about sexual assault. The information shall be developed in collaboration with campus-based and community-based victim advocacy organizations.

- Information regarding violence prevention and education information will be posted on the College's internet website.

Reviewed: June 25, 2013

Reviewed: December 16, 2014

Reviewed: June 9, 2015

Reviewed: August 17, 2016



Unlawful Discrimination Complaint Form

NAME:

Last

First

Middle

ADDRESS:

Street or P.O. Box

City

State

Zip

HOME PHONE:

CELL PHONE:

WORK PHONE:

EMAIL ADDRESS:

I AM A: STUDENT STUDENT WORKER FACULTY ___ CLASSIFIED ADMINISTRATOR
 SUPERVISOR CONFIDENTIAL APPLICANT OTHER: _____

PLEASE IDENTIFY THE NAME(S) OF THE PERSON(S) WHO YOU ALLEGE DISCRIMINATED AGAINST YOU *(Please Print. Attach additional pages as necessary):*

NAME:

Last

First

Middle

STATUS: STUDENT STUDENT WORKER FACULTY CLASSIFIED ADMINISTRATOR
 SUPERVISOR CONFIDENTIAL APPLICANT OTHER: _____

DATE OF MOST RECENT INCIDENT OF ALLEGED DISCRIMINATION: _____

*(Non-employment complaints must be filed within one year of the date of the alleged unlawful discrimination.
Employment complaints must be filed within six months of the date of the alleged unlawful discrimination.)*

I ALLEGE DISCRIMINATION BASED ON THE FOLLOWING CATEGORY PROTECTED UNDER TITLE 5
(you must select at least one):

- Age
- Religion
- Race
- Color
- Gender Identity/Gender Expression
- Perceived to be in protected category or associated with those in protected category
- Ethnic Group Identification
- Ancestry
- Sex/Gender (includes Harassment)
- National Origin
- Physical Disability
- Mental Disability
- Sexual Orientation
- Retaliation**

Clearly state your complaint. Describe each incident of alleged discrimination separately. For each incident provide the following information: 1) date(s) the discriminatory action occurred; 2) name of individual(s) who discriminated; 3) what happened; 4) witnesses (if any); and 5) why you believe the discrimination was based upon the protected categories you indicated above.

****If applicable, explain why you believe you were retaliated against for filing a complaint or asserting your right to be free from discrimination on any of the above grounds. (Attach additional pages as necessary.)**

WHAT WOULD YOU LIKE THE DISTRICT TO DO AS A RESULT OF YOUR COMPLAINT -- WHAT REMEDY ARE YOU SEEKING? _____

I certify that this information is true and correct to the best of my knowledge.

Signature of Complainant

Date

HOW TO FILE THIS COMPLAINT

Send **Original** to:

Abe Ali
Vice President, Human Resources
Human Resources
1100 North Grand Avenue
Bldg. 4, Room 1460
Walnut, CA 91789

You may also file your complaint with the State Chancellor's Office at:

Chancellor's Office, California Community Colleges
1102 Q Street
Sacramento, California 95811-6549
Attention: Legal Affairs Division