



Administrative Regulation
Chapter 3 – General Institution

AR 3420 EQUAL EMPLOYMENT OPPORTUNITY

Equal Employment Opportunity Program and Discrimination Complaint Procedure

1. General Provisions:

The Office of Human Resources shall be responsible for overseeing the District's equal employment opportunity program. The Dean, Human Resources shall oversee the day-to-day implementation of the District's equal employment opportunity program. The District's policy and administrative regulations concerning equal employment and the discrimination complaint procedure shall be disseminated to all employees.

2. Equal Employment Opportunity Responsibilities:

The Office of Human Resources through the Dean, Human Resources shall:

- A. Oversee the District's equal employment opportunity program and work with appropriate staff in ensuring that the District's program receives the broadest possible commitment from staff and students.
- B. Work closely with district personnel and appropriate committees to ensure achievement of equal employment opportunities.
 - 1) PREPARE AND PUBLISH a workforce analysis to ensure the District meets its equal employment opportunity requirements.
 - 2) REVIEW JOB ANNOUNCEMENTS, job descriptions, job specifications and other job related statements in cooperation with appropriate staff to ensure compliance with equal employment opportunity requirements.
 - 3) REVIEW SELECTION, retention, tenure, and promotion criteria to ensure that neither qualified nor qualifiable candidates are excluded from consideration.
 - 4) HELP INCREASE APPLICANT POOL by assisting with recruitment and devising ways and means of helping the District to increase the number of qualified members of historically underrepresented groups.
 - 5) ASSIST IN DEVELOPING IN-SERVICE AND EQUAL EMPLOYMENT OPPORTUNITY PROGRAMS for administration, faculty, staff and students.
 - 6) RECEIVE AND SEEK RESOLUTION OF UNLAWFUL DISCRIMINATION COMPLAINTS. Publicize complaint procedures, receive, investigate and seek resolution of affirmative action and unlawful discrimination complaints, working with appropriate staff.

- C. RECOMMEND REVISION: The Affirmative Action Officer shall recommend revision of the District Equal employment opportunity program as needed.
 - D. ASSIST IN MAINTAINING LIAISON WITH AGENCIES at the county, state, and federal levels, as well as organizations concerned with the promotion of fair employment practices, and work with appropriate agencies in ascertaining current population characteristics for the District.
 - E. ATTEND MEETINGS AND CONFERENCES pertaining to equal employment opportunity.
 - F. CHAIR MEETINGS of the Equal employment opportunity Advisory Committee and communicate committee concerns and recommendations to appropriate staff.
 - G. ASSUME OTHER DUTIES related to equal employment opportunity responsibilities.
 - H. Work with faculty, staff, and students in developing programs and activities that foster upward mobility for historically underrepresented group members. Such activities include, but are not limited to, mentorships and internships.
3. EQUAL EMPLOYMENT OPPORTUNITY ADVISORY COMMITTEE:

The District shall maintain an Equal Employment Opportunity advisory committee which shall be a Faculty Senate, Classified Senate and District joint committee. The committee shall assist and advise the District in implementing the District's equal employment opportunity program.

- A. The Advisory Committee shall recommend and participate in in-service training on Equal employment opportunity.
- B. The Advisory Committee shall assist in efforts to recruit applicants from historically underrepresented groups for administrative, faculty and classified positions.
- C. The Advisory Committee shall assist in dissemination of equal employment opportunity reports.

Education Code Section 87151

4. EMPLOYMENT PROCEDURES:

The following provisions shall apply to the hiring process for faculty, classified and all administrative/management positions.

- A. Minimum Qualifications: Minimum qualifications shall be described in terms of skills, knowledge, abilities, and personal characteristics required for successful performance of the positions' duties and classification. Training, education, and experience requirements shall reasonably relate to the skills, knowledge, abilities, and personal characteristics required to perform successfully the duties and classification of the position.
- B. JOB DESCRIPTION: The job description shall be developed on the basis of job analyses that describe bona fide minimum job requirements for all positions, both full-time and part-time. In addition to providing a general statement of job duties, responsibilities, and detailed job specifications, job descriptions shall also include a requirement that applicants demonstrate sensitivity to and understanding of the diverse academic, socio-economic, cultural, disability, and ethnic backgrounds of community college students, faculty, and staff.
- C. JOB ANNOUNCEMENTS: Job announcements shall provide prospective applicants with information that parallels the job description as well as information about the District, salary range, application deadline, contact person, and the District's commitment to equal employment opportunity.

- D. **JOB APPLICATION AND SELECTION/TESTING INSTRUMENTS:** Application forms and selection/testing instruments shall be designed to obtain general information about a candidate's qualifications for a position, as well as to obtain, fairly and objectively, specific knowledge about a candidate's expertise in the subject matter of the position.

- E. **PERMANENT POSITIONS:** All positions shall be advertised by the Office of Human Resources or when applicable, the Personnel Commission and numerous sources shall be contacted to assist in developing a diverse applicant pool. Vacancies shall be posted for a minimum of thirty (30) days for faculty and administrative positions, and a reasonable length of time for classified positions, such period to be determined by the Personnel Commission. The recruitment procedure may include the following:
 - 1) Advertisements in publications with wide circulation among historically underrepresented groups, in addition to the usual publication outlets.
 - 2) A current mailing list of organizations and contact persons with ties to historically underrepresented groups.
 - 3) Monitoring of all recruiting sources and make necessary adjustments.
 - 4) Consultation with four-year and secondary institutions, especially to identify potential faculty from among historically underrepresented groups and seek to establish professional internships for such individuals.
 - 5) A partnership program with selected secondary schools to provide for student and staff enrichment and exchange.
 - 6) A commitment to the importance of diversity as an essential ingredient of the learning environment in all its publicity, publications, and services.

5. **SELECTION PROCESS:**

- A. **APPLICANT POOL:** Each applicant shall be given an opportunity to identify himself/herself as a member of an historically underrepresented group when his/her application is submitted. This information shall be kept confidential and may be used only in research, validation, monitoring and evaluating the effectiveness of the District's affirmative action program. This information shall be used to assure that the applicant pool is reflective of the availability of historically underrepresented groups in the workforce.

When the applicant pool does not include qualified members of historically underrepresented groups in numbers reflective of the available workforce, the employment process may be extended or suspended pending additional recruitment efforts.

- B. **SELECTION, TESTING, INTERVIEWING:**

- 1) **PROCESSES:** Processes for applicant selection, testing, and interviewing shall conform to principles of equal employment opportunity. For classified positions refer to the Rules and Regulations of the Personnel Commission (Personnel Commission Rules) and for academic positions refer to Administrative Regulation 3211.

- C. **SELECTION COMMITTEES:**

- 1) **INCLUSION OF UNDERREPRESENTED MEMBERS:** To the extent qualified individuals are available, every committee formed for selecting and interviewing candidates for employment shall include at least one member of an underrepresented group.

- 2) EMPLOYMENT AUDIT: An employment audit report shall be completed for each position filled through the faculty, administration, and classified hiring processes and reviewed by the Superintendent and President or designee. A file shall be maintained to provide a summary of affirmative actions in filling vacancies. All materials related to the employment process shall be maintained for at least three years or for three years after audit, whichever comes first. If a complaint is filed or pending, materials shall be maintained indefinitely.
6. DISTRICT EVALUATION REPORT: The District shall prepare an annual summary of district employment practices and an evaluation of progress in ensuring equal employment opportunity. The report shall be reviewed by the Equal Employment Opportunity Advisory Committee and forwarded to the Superintendent and President for review and distribution to the Board of Trustees, District employees, the public, including appropriate community organizations, and the Chancellor's Office. The report shall include a request from the District for assistance from the community in identifying qualified members of historically underrepresented groups.
7. AFFIRMATIVE ACTION AND ACCOMMODATION FOR PERSONS WITH DISABILITIES: The District shall, consistent with applicable provisions on of Title 5, affirmatively recruit and hire individuals with disabilities. Toward this end the District shall do the following:
 - A. REVIEW PERSONNEL PRACTICES and policies to determine whether any discriminatory practices exist and move to correct all such practices.
 - B. REVIEW SELECTION DECISIONS and/or offers of employment to be certain that they are not governed by unverified assumptions about any individual's willingness or ability to perform the job. All interview committees shall be informed that it is the District's medical doctor, not the committee, who determines whether applicants are physically or mentally able to do the job, or whether they have physical limitations that would disqualify them from doing the job.
 - C. DISTRIBUTE JOB VACANCY ANNOUNCEMENTS to appropriate service organizations and vocational rehabilitation agencies, and maintain contact with these agencies for purposes of advice and
 - D. MAKE REASONABLE ACCOMMODATION to the physical and mental limitations of employees and applicants. This might include improving access to District facilities and adapting equipment. It might also include hiring a reader or an interpreter for an employee or student.
 - E. REVIEW DISTRICT REQUIREMENTS for preemployment physical requirements to ensure their job relatedness.
 - F. APPOINT A COORDINATOR to handle compliance and complaints. Complaints may be filed with the Coordinator or the Affirmative Action Officer, using procedures for affirmative action or unlawful discrimination complaints outlined in this document.

Title IX Implementation

Title IX is a part of the overall equal employment opportunity plan for the Santa Monica Community College District. The Higher Education Guidelines based on Executive Order 11246 embody two important concepts: nondiscrimination and affirmative action.

Title IX of the Education Amendment of 1972 prohibits discrimination on the basis of sex in all federally funded education programs. The regulation, which became effective on July 21, 1975, specifies a number of actions that educational institutions receiving federal funds, as well as other recipients of federal education funds, must take in order to be in compliance with the law. Basically, the regulations fall into five categories: general matters related to discrimination on the basis of sex, admissions, treatment of students once they are admitted, employment, and procedures.

TITLE IX FACILITATOR

The Dean, Human Resources shall be responsible for coordination of efforts to ensure that District policies and practices concerning faculty, staff and students are in compliance with Title IX regulations.

Discrimination Complaint Procedure for Job Applicants, Employees and Students

It shall be the District objective to provide all job applicants, employees and students with an expeditious and effective procedure for resolution of complaints alleging unlawful discrimination. Investigations shall be conducted in a manner which seeks to balance issues of confidentiality and privacy with the need to conduct thorough, objective investigations of all complaints. Rights of complainants to freedom from retribution shall be protected. All complaints shall be filed within one year of the date of the alleged unlawful discrimination or within one year of the date on which the complainant knew or should have known of the facts underlying the allegation of unlawful discrimination.

1. INFORMAL COMPLAINT PROCEDURE:

Filing an informal complaint shall be a prerequisite to filing formal complaints. The District encourages the resolution of complaints through the informal process.

A. **FILING COMPLAINT:** An informal complaint alleging unlawful discrimination and/or failure to comply with approved equal employment opportunity selection procedures shall be filed in person with the Dean, Human Resources or the employee's immediate supervisor as soon as possible following the occurrence which gave rise to the complaint.

B. **INVESTIGATION OF COMPLAINT:** The complaint shall be investigated by the Dean, Human Resources or designee(s) or the employee's immediate supervisor. If a prima facie case supporting the complaint is determined to exist, appropriate steps shall be taken to safeguard the right(s) of the complainant to fair consideration until final determination of the complaint has been made.

C. **TIMELINES FOR DETERMINATION:** An informal investigation shall be conducted and the complainant notified of the disposition of the complaint including the recommended remedies, if any, within thirty (30) days.

D. **REPORTS OF INFORMAL COMPLAINTS:** The Dean, Human Resources shall be notified of all informal complaints and their resolution in order to monitor the scope and success of the District's equal opportunity program.

2. FORMAL COMPLAINT PROCEDURE:

When a complaint cannot be resolved through the informal procedure, the complainant may submit a formal complaint.

A. **FILING COMPLAINT:** A formal complaint alleging unlawful discrimination and/or failure to comply with approved District equal opportunity and/or affirmative action requirements shall be filed in writing with the Dean, Human Resources or the Chancellor of the California Community Colleges on the District approved complaint form within ten (10) days following the determination of an informal complaint.

B. **INVESTIGATION OF COMPLAINT:** The complaint shall be investigated by the Dean, Human Resources or designee(s). Upon filing of the complaint, the Dean, Human Resources or designee(s) shall take the steps necessary to safeguard the right(s) of the complainant to fair consideration until final determination of the complaint has been reached. The results of the investigation shall be set forth in a written report which shall include at least all of the following:

- 1) a description of the circumstances giving rise to the complaint;
- 2) a summary of the testimony provided by each witness, including the complainant and any witnesses identified by the complainant in the complaint;
- 3) an analysis of any relevant data or other evidence collected during the course of the investigation;
- 4) a specific finding as to whether discrimination did or did not occur with respect to each allegation in the complaint; and
- 5) any other information deemed appropriate by the District.

- C. REVIEW WITH EQUAL EMPLOYMENT OPPORTUNITY COMMITTEE: The Dean, Human Resources shall review with the Equal Employment Opportunity Committee the results of any complaints that do not name a specific individual, but allege that the District, through its policies or practices discriminates unlawfully or violates approved District affirmative action requirements. The Committee may make an advisory recommendation to the Dean, Human Resources regarding such complaints.
 - D. TIMELINE FOR DETERMINATION: Within ninety (90) days of receiving a formal complaint, the District shall complete its investigation and forward all of the following to the complainant:
 - 1) a copy or summary of the investigative report required pursuant to Section 2.B of the complaint procedures.
 - 2) a written notice setting forth:
 - a. the determination of the Chief Executive Officer or his/her designee(s) as to whether discrimination did or did not occur with respect to each allegation in the complaint;
 - b. a description of actions taken, if any, to prevent similar problems from occurring in the future;
 - c. the proposed resolution of the complaint; and
 - d. the complainant's right to appeal to the District Board of Trustees and the Chancellor.
 - E. COMPLAINT TO COMPLIANCE AGENCIES: The filing of a formal unlawful discrimination complaint with the District shall in no way prevent the complainant from filing a complaint with California DFEH (Department of Fair Employment and Housing), United States EEOC (Equal Employment Opportunities Commission), Federal OCR (Office of Civil Rights) or the Director, Civil Rights (CRC), U.S. Department of Labor, 200 Constitution Avenue, NW, Room N-4123, Washington, D.D. 20210, or the Chancellor's Office of the California Community Colleges.
 - F. PERSONNEL COMMISSION'S JURISDICTION: Matters that are appealable to the Personnel Commission will continue to operate pursuant to Chapter XIV of the merit rules "Disciplinary Action and Appeals". Other allegations of discrimination involving matters which are within the exclusive jurisdiction of the Commission, including, but not limited to, recruitment, examination, classification, etc., shall be investigated jointly by the Dean, Human Resources and the Personnel Commission Director. Their findings and recommendations shall be submitted to the Personnel Commission for review and final determination.
3. APPEAL OF DECISION
- A. If the complainant is not satisfied with the results of the administrative determination, the complainant may, within fifteen (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 determination and the appeal, and issue a final District decision in the matter within forty-five (45) days after receiving the appeal. A copy of the final District decision rendered by the Board of Trustees shall be forwarded to the complainant and to the Chancellor 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 forty-five (45) days, the administrative determination shall be deemed approved and shall become the final District decision in the matter.
 - B. In any case not involving employment discrimination, the complainant shall have the right to file a written appeal with the Chancellor of the California Community Colleges within thirty (30) days after the Board of Trustees issues the final District decision or permits the administrative determination to become final.

- C. In any case involving employment discrimination, the complainant may, at any time before or after the final District decision is rendered, file a complaint with the Department of Fair Employment and Housing. In addition, in such cases, the complainant may file a petition for review with the Chancellor of the California Community Colleges within thirty (30) days after the Board of Trustees issues the final District decision or permits the administrative determination to become final. The Chancellor shall have discretion to accept or reject any such petition for review in employment discrimination cases. If the Chancellor agrees to accept the case, he/she may:
 - 1) attempt to informally resolve the matter;
 - 2) where applicable, treat the complaint as an allegation that the District has violated the approved regulations and guidelines for handling discrimination complaints;
 - 3) take any other action deemed appropriate by the Chancellor.

4. FORWARD TO CHANCELLOR

Within 150 days of receiving a complaint, the District will forward the following to the Chancellor:

- A. the original complaint;
- B. the report required describing the nature and extent of the investigation conducted by the District;
- C. a copy of the notice sent to the complainant;
- D. a copy of the final District decision rendered by the Board of Trustees or a statement indicating the date on which the administrative determination became final;
- E. a copy of the required notice to the complainant; and
- F. such other information as the Chancellor may require.

5. EXTENSIONS: FAILURE TO COMPLY

- A. If a District, for reasons beyond its control, is unable to comply with the 150 day deadline for submission of material to the Chancellor of the California Community Colleges, the District may file a written request that the Chancellor grant an extension of the deadline. The request shall be submitted not later than ten (10) days prior to the expiration of the deadline and shall set the reasons for the request and the date by which the District expects to be able to submit the required materials.
- B. A copy of the request for an extension shall be sent to the complainant who may file written objections with the Chancellor within five (5) days of receipt.
- C. The Chancellor may grant the request unless delay would be prejudicial to the complainant.
- D. If the District fails to comply by the required deadline, including any extension granted pursuant to this section, the Chancellor may proceed to review the case based on the original complaint and any other relevant information then available.

6. STUDENT COMPLAINTS:

The procedure for student affirmative action and unlawful discrimination complaints shall be the same as for job applicants and employees except that students may file informal complaints with the Assistant Dean, Equal Employment Opportunity/Diversity or the Dean, Student Life.

7. TITLE IX, SEX DISCRIMINATION AND SEXUAL HARASSMENT COMPLAINT PROCEDURES FOR JOB APPLICANTS, EMPLOYEES AND STUDENTS:

The procedures for Title IX, complaints shall be the same as for affirmative action or unlawful discrimination complaints except that job applicants, employees and students may file informal complaints with the Dean, Human Resources or the Title IX Facilitator.

8. LEGAL ACTION:

If a complainant does not agree with the District's decision or Chancellor's review, and if the complainant feels that a state or federal law has been violated, the complainant may pursue the complaint through legal action.

Also see BP/AR 3410 Nondiscrimination, BP/AR 3430 Prohibition of Harassment, AR Discrimination and Harassment Complaints and Investigations, BP/AR 7100 Commitment to Diversity, and BP/AR Recruitment and Selection.

References:

Education Code Sections 87100 et seq.;
Government Code Sections 7400 et seq. and 12940 et seq.;
Title 5 Sections 53000 et seq. and 59300 et seq.;
ACCJC Accreditation Standard 3

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