



Discrimination, Harassment & Retaliation

Awareness and Reporting

Presented by
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Diversity, Equity and Compliance

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Diversity, Equity and Compliance

- Facilitates and monitors District efforts to cultivate an inclusive, respectful and supportive climate
- Works collaboratively with the College communities to create a safe environment for intellectual interactions and growth
- Administers:
 - The Equal Employment Opportunity program
 - Inclusiveness and Diversity Strategic Planning
 - District-wide training on diversity and non-discrimination compliance
 - Investigation of discrimination, harassment and retaliation complaints

Diversity and Human Resources

Melissa Kane
Vice Chancellor
Diversity and Human Resources

Art Alcaraz
Director
Human Resources

Human Resource Specialists

Chani Beeman
Director
Diversity, Equity and Compliance

Deb Miller
Administrative Assistant

Workshop Objectives

After this workshop you will be able to:

- Understand the laws and district policies regarding discrimination, harassment and retaliation.
- Identify prohibited conduct
- Understand how to respond
- Know what to expect in the reporting process

Relevant Laws

- **Federal regulations**
 - Civil Rights Act of 1964
 - Title IX of the Education Amendments of 1972
 - Americans with Disabilities Act (ADA)
 - Age Discrimination Act 1975
 - Veteran's Opportunity Act 1998
- **State Regulations**
 - California Fair Employment and Housing Act (FEHA)
 - California Code of Regulations title 5
 - Education Code

BP 3410 Non Discrimination

"The District, and each individual who represents the District, shall provide access to its services, classes, and programs without regard to actual or perceived disability, sex/gender, nationality, race or ethnicity, religion, sexual orientation, age, 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. In addition to these protected bases, the District additionally provides equal employment opportunities to all applicants and employees regardless of gender, medical condition, marital status, or status as a Vietnam-era veteran..."

BP 3430 Prohibition of Harassment

"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. It shall also be free of other unlawful harassment, including that which is based on actual or perceived disability, sex/gender, nationality, race or ethnicity, religion, sexual orientation, age, 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..."

... and Retaliation

"...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 of harassment or for participating in a harassment investigation. Such conduct is illegal and constitutes a violation of this policy.

All allegations of retaliation will be swiftly and thoroughly investigated. If the District determines that retaliation has occurred, it will pursue all measures take all reasonable steps within its power to stop such conduct..."

The image features a light green background with several thick, curved green lines that sweep across the frame. Two starburst shapes, composed of multiple thin lines radiating from a central point, are positioned on the left and right sides. The word "AWARENESS" is centered in a dark blue, sans-serif font.

AWARENESS

Protected Bases

Actual, perceived or association with others':

- Disability
 - Sex/Gender
 - Nationality
 - Race or ethnicity
 - Religion
 - Sexual orientation
 - Age (40+)
 - Medical condition*
 - Marital status*
 - Vietnam Veteran status*
- 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

*Employment Only

Types of Complaints

- Discrimination
- Harassment
- Retaliation

Unlawful activity and also violates District policies

- Discrimination

Differential treatment of an individual or group that is based on:

- One or more protected characteristics
 - Likely to impair a reasonable person's performance or prospects for advancement or promotion.
-
- Examples: Double standards, assignments, limitations

- Harassment

Verbal, visual or physical conduct of an aggravating nature that is based on:

- A protected characteristic
 - Is unwelcome
 - Is sufficiently severe or pervasive to alter the working/learning environment so as to create an abusive environment.
-
- Harassment does NOT need to be intended, it is determined by the perception of “the reasonable person”
 - Examples: Yelling, teasing, intimidation, rumors, innuendo, touching

- Retaliation

Causal connection between a person's engagement of a protected activity and an adverse action.

- Examples: Threats, rumors, letter of reprimand, schedule change

Sexual Harassment

- Defined as:
 - *unsolicited and unwelcome sexual advances, requests for sexual favors and other verbal, physical or visual conduct of a sexual nature.*
 - Examples: Jokes, comments, notes, teasing, dating requests, massaging, requests for hugs, photos

Sexual Harassment Includes

- Conduct directed by:
 - Men toward women
 - Women toward men
 - Men toward men
 - Women toward women

Test your conduct...

- **To Determine if Your Conduct is Appropriate, Ask Yourself the Following Questions:**

1. Would I want my conduct to be the subject of a column in the college newsletter or to appear on the evening news?
2. Is there equal power between me and the person I am interacting with?
3. Would I behave the same way if the person that I'm in a relationship with were standing next to me?
4. Would I want someone else to act this way toward a person that I'm in a relationship with?
5. Is there equal initiation and participation between me and the person I'm interacting with?



REPORTING

How to Report...

Notify your supervisor
or contact

Diversity, Equity & Compliance
222-8039

AP 3435: Handling Complaints of Unlawful Discrimination, Harassment and Retaliation

- Who is covered?
 - The District is required to protect students and employees from discriminatory or harassing conduct by:
 - Visitors
 - Vendors and contractors
 - Other students and employees

Formal Complaint Requirements

- Must be filed on the appropriate form
 - *Verbal reports are not formal complaints*
- Filed by a person alleging unlawful discrimination
- Must allege unlawful discrimination
- Non-employment complaint must be filed within one year of date of discrimination or date complainant knew or should have known of discrimination
- Employment-related complaint must be filed within 180 days of alleged occurrence

Filing a Formal Complaint

- The appropriate form and district procedure is located at the DEC web site:

<http://rcc.edu/administration/dec.cfm>

- and, the CCCCCO web site: <http://www.cccco.edu/OurAgency/Lega/Discrimination/tabid/294/Default.aspx>

Complaint Process Timeline

- Investigation
 - Confidential process
 - May take up to 90-calendar days
 - A summary of the investigative report is provided to the complainant and subject of the complaint
 - Based on investigative findings an Administrative Determination as to the validity of the complaint is made

Complaint Process Timeline

- Appeal Levels
 - Administrative Determination may be appealed to the Board of Trustees
 - Board of Trustees may or may not take action to hear appeal
 - Decision of the Board is final District Decision
 - If Board takes no action, Administrative Determination becomes District Decision
 - District Decision may be appealed to external agencies:
 - Non employment related – State Chancellor’s Office
 - Employment related – Department of Fair Employment and Housing or Equal Employment Opportunity Commission (or both)

Consequences of Unlawful Discrimination

- **Employees**
 - Reprimands, counseling, suspension, missed promotion, termination
- **Students**
 - Removal from class, counseling, academic record notation, expulsion
- **General**
 - Lawsuits, decreased morale, low enrollment, lower grades, diminished reputation

Confidentiality of Records and Information

- All records and information regarding investigations are kept confidential to the extent allowed by law
 - *There is no absolute confidentiality*
- Confidential information may be disclosed in cases involving litigation
- All parties (including witnesses) are cautioned to not discuss complaint information outside the investigative process, except with their legal representative
- Information regarding disciplinary outcomes will remain confidential

Outside Agencies

- Although the District prefers to resolve complaints internally, employees and students may also file complaints with the following external agencies:
 - Department of Fair Employment and Housing
 - employment-related complaints
 - Equal Employment Opportunity Commission
 - employment-related complaints
 - Department of Education Office for Civil Rights
 - non employment-related complaints
 - State Chancellor's Office
 - Any complaint may be sent to this agency, but only has appeal jurisdiction over complaints not related to employment



Questions & Discussion