

**Acknowledgement of Documentation**

**I, the undersigned, affirm that I have 1) received/reviewed information on procedures** and requirements regarding workers' compensation coverage, 2) received an opportunity to designate a physician as provided in Labor Code, Section 4600 and 3) received/reviewed the following documents:

- Notice of Marketplace – Covered California
- Facts about Workers' Compensation / Personal Physician Pre-Designation
- Workers' Compensation Medical Provider Network: WellComp MPN
- Prohibition of Harassment Policy/Procedure
- Nondiscrimination Policy/Procedure
- Discrimination and Harassment Investigations Administrative Procedures
- Campus Safety Policies
- DFEH-151 Discrimination is Against the Law
- DFEH-184 Employment Discrimination Based on Disability
- DFEH-185 Sexual Harassment
- Whistleblowers Are Protected
- FMLA Rights and Responsibilities
- DPS – FAQ's
- District Network and Computer Use Procedure

I understand that I must read and become familiar with the above documents and ask for clarification when needed. I also understand that I am required to attend harassment and nondiscrimination training during my first year of employment, or as often as required by the District.

\_\_\_\_\_  
Employee (please print name)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date



# Chaffey College

## Human Resources

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Date: September 22, 2020  
To: New Hires  
From: Susan Hardie, Executive Director, Human Resources  
Subject: Notice of Marketplace – Covered California

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In compliance with 29 U.S.C.A. § 218b, Chaffey Community College District (hereinafter referred to as "District") is providing this Notice to you concerning your health insurance coverage options under the Patient Protection and Affordable Care Act (ACA).

The ACA required states to establish a health coverage exchange (also known as a Health Insurance Marketplace) where individuals may compare coverage options and shop for health coverage. California's Health Insurance Marketplace is called Covered California.

Starting January 1, 2014, the ACA requires all individuals to have health insurance coverage or pay a tax penalty to the Internal Revenue Service. If you are already enrolled in coverage through the District, then you will avoid this tax penalty. The District will continue to offer coverage to eligible individuals. If you elect to enroll in a District plan, you will receive a Summary of Benefits and Coverage upon enrollment and renewal, if renewal is required to maintain coverage. These summaries are also available on the District's human resources web page referenced below.

If you are not eligible for coverage through the District, you can obtain individual health insurance coverage through Covered California. Employees eligible for benefits through the District will also have the option of purchasing coverage through Covered California, but the District will not contribute to the cost of a plan purchased by you through Covered California. All or a portion of the District's contribution to health coverage offered through the District may be excludable from income for Federal income tax purposes. If you are eligible for benefits through the District but opt to purchase coverage through Covered California instead, you will not benefit from this Federal income tax exclusion because payments for coverage through Covered California are made on an after-tax basis.

Depending on household income, some individuals may become eligible for subsidies to help pay for insurance coverage purchased through the Health Insurance Marketplace. You may be eligible for a tax credit that lowers your monthly premium, or a reduction in certain cost-sharing, if your employer does not offer coverage to you at all or does not offer coverage that meets certain standards. Specifically, you may be eligible for subsidized coverage through Covered California if you would have to pay more than 9.5% of your annual household income toward the District's lowest cost self-only plan or if that plan does not meet the "minimum value" standard set by ACA (i.e. employer plan must share at least 60% of the total allowed costs of benefits).

To get more information, visit the Covered California website at [www.coveredca.com](http://www.coveredca.com) or call 1-800-300-1506. For additional and frequently asked questions please visit <https://www.coveredca.com/FAQs>.

The District wants to make sure that you are fully informed regarding the changes under the ACA that might impact you. For your convenience, this information is available on the District's human resources web page at <https://www.chaffey.edu/hr/benefits.php>.

**Pre-designation Of Personal Physician**

In the event you sustain an injury or illness related to your employment, you may be treated for such injury/illness by your personal medical doctor (M.D) or doctor of osteopathic medicine (D.O.) or medical group if: You have health care insurance for injuries/illness that are not work related, the doctor is your regular physician, who shall be either a physician who has limited his or her practice of medicine to general practice or who is a board-certified or board-eligible internist, pediatrician, obstetrician-gynecologist, or family practitioner, and has previously directed your medical treatment, and retains your medical records; your "personal physician" may be a medical group if it is a single corporation or partnership composed of licensed doctors of medicine or osteopathy, which operates an integrated multispecialty medical group providing comprehensive medical services predominantly for non-occupational illnesses and injuries; prior to the injury your doctor agrees to treat you for work injuries or illnesses; prior to the injury you provided your employer the following in writing: (1) notice that you want your personal doctor to treat you for a work-related injury/illness, and (2) your personal doctor's name and business address.

You may use this form, a form provided by your employer or provide all the information in writing to notify your employer if you wish to have your personal medical doctor or a doctor osteopathic medicine treat you for a work-related injury/illness and the above requirements are met.

**Notice Of Pre-designation Of Personal Physician**

**Employee: Complete this section**

Employer \_\_\_\_\_

If I have a work-related injury or illness, I choose to be treated by:

\_\_\_\_\_  
(Name of doctor) (M.D., D.O., or medical group)

\_\_\_\_\_  
(street address, city, state, zip)

\_\_\_\_\_  
(telephone number)

Employee Name (please print): \_\_\_\_\_

Employee's Address: \_\_\_\_\_

Employee Signature: \_\_\_\_\_ Date \_\_\_\_\_

Note to Employee: Unless you agree in writing, neither your employer or York may contact your personal physician to confirm a pre-designation. If your physician does not sign this form, other documentation that they agreed to be pre-designated prior to the injury will be required. If you agree, your employer or York may contact your personal physician to confirm this pre-designation, sign and date below:

Employee Signature \_\_\_\_\_

Employee # \_\_\_\_\_ Date \_\_\_\_\_

**Physician: I agree to this Pre-designation:**

Signature: \_\_\_\_\_ Date \_\_\_\_\_

(Physician or Designated Employee of the Physician)

The physician is not required to sign this form, however, if the physician or designated employee of the physician or medical group does not sign, other documentation of the physician's agreement to be pre-designated will be required pursuant to Title 8, California Code of Regulations, section 9780.1(a)(3).

**Notice Of Personal Chiropractic Or Personal Acupuncturist**

If your employer or your employer's insurer does not have a Medical Provider Network (MPN), you may be able to change your treating physician to your personal chiropractor (D.C.) or acupuncturist (L.A.C.) following a work-related injury/illness. In order to be eligible to make this change, you must give your employer the name and business address of a personal D.C. or L.A.C. in writing prior to the injury/illness. York generally has the right to select your treating physician within the first 30 days after your employer knows of your injury/illness. After your employer or York has initiated your treatment with another physician during this period, you may then, upon request, have your treatment transferred to your personal D.C. or L.A.C. You may use this form to notify your employer of your personal D.C. or L.A.C., or your employer may have their own form. The D.C. or L.A.C. must be your regular D.C. or L.A.C. who has directed your treatment and retains your chiropractic records and history. If your employer has an MPN, you may only switch to a D.C. or L.A.C. within the MPN. A chiropractor cannot be your treating physician after 24 visits. If you still require medical treatment thereafter, you will have to select a physician who is not a chiropractor.

\_\_\_\_\_  
Name of chiropractor or acupuncturist (D.C., L.A.C.)

\_\_\_\_\_  
(street address, city, state, zip code)

\_\_\_\_\_  
(telephone number)

Employee Name (Please Print): \_\_\_\_\_

Employee's Address: \_\_\_\_\_

Employee's Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**WHEN A WORK INJURY OCCURS...**

- **Quickly seek first aid.**
- **Call 9-1-1 for help immediately if emergency medical care is needed.**
- **Immediately report injuries to your supervisor or employer representative at \_\_\_\_\_**

\_\_\_\_\_  
**Information & Assistance Office:** \_\_\_\_\_

**Employer MUST complete this information**



# The Facts About Workers' Compensation

For dates of injury on or after  
January 1, 2013

**York Risk Services Group, Inc.**  
P.O. Box 619079  
Roseville, CA 95661  
Phone (866) 221-2402  
Fax (866) 548-2637

Approved by Division of Workers' Compensation

**What is workers' compensation?** Its purpose is to insure that an employee who is found to sustain an industrial injury or illness will be provided with benefits to medically cure or relieve them from the effects of the injury/illness, provide temporary compensation when they are medically unable to perform any occupational function, compensation for any residual handicap and/or impairment of bodily function, benefits for dependents if an employee dies as a result of an injury/illness, protection from discrimination by his/her employer because of the injury/illness.

**Am I Covered?** Nearly every person employed in California is protected by workers' compensation, however there are a few exceptions. People that are self-employed or volunteer workers may not be covered. Similar laws cover federal and maritime workers. York Risk Services Group (York) is your employer's claims administrator. Your employer or York can answer any questions you might have about coverage.

**What Does Workers' Compensation Cover?** If you have an injury/illness due to your job, it is covered. The cause can be a single event, like a fall or it can be due to repeated exposures, such as hearing loss due to constant loud noise. Injuries ranging from first-aid to serious accidents are covered. Even injuries related to a workplace crime, such as psychological or physical injuries, are covered under workers' compensation. Some injuries that result from voluntary activity, such as off duty social or athletic activities may not be covered. Check with your employer or York if you have questions. Coverage begins the moment you start your job. There is no probationary period or wage rate.

**Duty Of The Employee.** Immediately notify your employer or York so you can get the medical help that you need without delay. If your injury is greater than a first-aid injury, your supervisor will give you a Claim Form (Form DWC-1) for you to describe where, when and how it happened. To submit a claim, fill out the "Employee" section of the DWC-1. Keep one copy of this form and give the remaining pages to your supervisor. Your employer will fill out the "Employer" section and return a signed and dated copy of the form to you. Your employer will keep a copy of this form and forward another to York. York is in charge of handling your claim and informing you about your eligibility for benefits.

Your claim benefits do not start until your employer knows about your injury, so report and file the DWC-1 as quickly as possible. California law requires your employer to authorize medical treatment within one working day of receipt of your Claim Form. Employers are liable for up to \$10,000 in treatment pending a decision by York for a claim to be accepted or rejected. Waiting to report may delay workers' compensation benefits. You may not receive benefits if you fail to file a claim within one year of the date of injury, the date you know the injury was work related, or the date benefits were last provided.

**Duty of the Employer:** Provide this form to every employee at the time of hire or by the end of their first pay period.

Within one working day, upon knowledge or notice from any source of a work injury/illness greater than first-aid, provide the employee with a Claim Form (DWC-1) and authorize medical treatment and report the claim to York Risk Services Group.

**What are the benefits?** You may be entitled to various kinds of benefits under California workers' compensation law including:

**Medical Care:** Medical treatment that is reasonably required to cure or relieve the injured worker from the effects of the injury/illness. There is no deductible or co-payment. These medical benefits may include lab tests, physical therapy, hospital services, medication and treatment by a doctor.

State law limits certain medical services as of January 1, 2004. You should never receive a medical bill. If additional treatment is necessary, York will coordinate medical care that meets applicable treatment guidelines for the injury. The doctor may be a specialist for your specific type of injury, and he or she will be familiar with workers' compensation requirements and will report promptly to York so your benefits can be paid.

The physician with overall responsibility for treating your injury/illness is your primary treating physician (PTP). The PTP decides what kind of medical care you need and if you have work restrictions. If necessary, the PTP will review your job description with you and your employer to define any limitation or restrictions that you may have. This doctor also is responsible for coordinating care between other medical providers and will write reports about any permanent impairment of bodily function(s) or the need for future medical care. Generally, your employer selects the PTP you will see for the first 30 days, but if you want to change doctors for any reason, ask your employer or York. They're as interested as you are in your prompt recovery and return to work and will select a different doctor for you. If your employer has a Medical Provider Network (MPN) you will be directed to treat with a physician within the MPN and different rules apply regarding changing your physician.

You can be treated by your personal physician or medical group immediately if you have health care insurance for injuries or illness that are not work related, and your physician agrees in advance to treat you for any work injuries/illnesses and has previously directed your treatment and retains your medical records and agrees, prior to your injury/illness, to treat you for workplace injuries/illnesses and you gave your employer your physician's name and address in writing before the injury. You may use the form inside of this pamphlet or your employer may have a form for you to use.

If you give the name of your personal chiropractor or acupuncturist, different rules apply, and you may need to see an employer-selected physician first.

**Temporary Disability Benefits:** If you are not medically able to work for more than three days due to your work-related injury, counting weekends, you have a right to temporary disability (TD) payments to assist substituting your lost wages. After two weeks from reporting the injury, you will receive a check. If your employer has a salary continuation plan, your benefit may be included in your regular paycheck. TD is payable every 14 days until the doctor states you can return to work (Payments won't be made for the first three days, though, unless you're hospitalized as an inpatient or unable to work more than 14 days). The amount of the payments will be two-thirds of your average wage, subject to minimums and maximums set by the state legislature. Although the TD payment will not be the full amount of your regular paycheck, there are no deductions and the payments are tax-free. For injuries occurring on or after January 1, 2008, TD payments are limited to 104 compensable weeks within five years of date of injury. For a few long-term injuries such as chronic lung disease or severe burns, TD payments can last up to 240 weeks within five years from the date of injury. If you reach the maximum TD payment period before you can return to work or before your condition becomes permanent and stationary. See the "Other Benefits" section of this pamphlet for additional information. A timely filing with Employment Development Department may result in additional State Disability benefits when TD benefits are delayed, denied, or terminated.

**Permanent Disability:** If your doctor says your injury will always leave you with some permanent impairment of bodily function(s), you may receive permanent disability (PD) payments. The amount depends on the doctor's report, how much of the PD was directly caused by your work, and factors such as your age, occupation, type of injury, and date of injury. State law determines minimum and maximum amounts, and they vary by injury date. If you are entitled to PD, York will send you a letter explaining how the benefit was calculated. If the injury

causes PD, the first payment of PD benefits is made within 14 days after the last payment of TD, unless your employer has offered you a position that pays at least 85% of your date of injury wages or if you are returned to a position that pays you 100% of the wages and, compensation paid to you on the date of injury, the PD would be paid after an Award issues.

**Supplemental Job Displacement Benefit (SJDB):** If you have a permanent whole person impairment, the eligibility for SJDB begins when your employer does not offer regular work, permanent, modified, or alternative work within 60 days of the receipt of a doctor's Medical Maximum Improvement (MMI) report. This is a nontransferable voucher for education-related retraining and/or skill development at state-approved schools, tools, licensing, certification fees and other resources as possible benefits. If you qualify for the supplemental job displacement benefit, York will provide a voucher up to a maximum of \$6,000.

**Death Benefits:** If the injury/illness causes death, payments may be made to your dependents. State law sets these benefits and the total benefit depends on the number of dependents. The payments are made at the same rate as TD payments. In addition, workers' compensation provides a burial allowance.

**Discrimination:** It is a violation of Labor Code Section 132(a) and illegal for your employer to punish or fire you for having a workplace injury/illness, for filing a claim or for testifying in another person's workers' compensation case. If your employer is found guilty of discrimination, you would be entitled to increased benefits, reinstatement and reimbursement for lost wages and benefits.

**Other Benefits:** Sometimes people confuse workers' compensation with State Disability Insurance (SDI). Workers' compensation covers on-the-job injuries/illnesses and is paid for by your employer or their insurance. On the other hand, SDI covers off-the-job injuries or sicknesses, and is paid for by deductions from your paycheck. If you are not getting workers' compensation benefits, you may be able to get State Disability benefits. Contact the local office of the State Employment Development Department listed in the government pages of your phone book for more information.

You may be eligible to access the return-to-work fund, for the purposes of making supplemental payments to injured worker's whose PD benefits are disproportionately low in comparison to their earnings loss. If you have questions or think you qualify, contact the Information & Assistance office listed in this pamphlet or visit the DIR website at: [www.dir.ca.gov](http://www.dir.ca.gov).

**If You Still Have Questions...**ask your supervisor or employer representative. Or contact York at the number indicated on workers' compensation posters at work and on this brochure. You can also contact the State Division of Workers' Compensation (DWC) and speak with an Information and Assistance Officer. These officers are available to review problems, answer questions and provide additional written information about workers' compensation at no charge. The local office is listed below and posted at your workplace. You can also call 800-736-7401 or visit the DWC website at: <http://www.dir.ca.gov/dwc>.

#### **WORKERS' COMPENSATION FRAUD IS A FELONY**

Anyone who makes or causes to be made any knowingly false or fraudulent material statement for the purpose of obtaining or denying workers' compensation benefits or payments is guilty of a felony. Fines can be up to \$150,000 and imprisonment up to five years.



# Chaffey College

Office of Human Resources

**TO:** All Chaffey College Employees and Volunteers  
**DATE:** July 5, 2018  
**FROM:** Susan Hardie, Director, Human Resources  
**RE:** Workers' Compensation Medical Provider Network (MPN)

California Law requires your employer to provide and pay for medical treatment if you are injured at work. Chaffey Community College District is pleased to provide this medical care through a Workers' Compensation Medical Provider Network (MPN). A Medical Provider Network is a group of health care providers set up by an employer and approved by California's Division of Workers' Compensation to treat workers injured on the job. The enclosed/attached pamphlet contains important information regarding the Medical Provider Network and your workers' compensation medical benefits. Please read it carefully.

Your medical treatment for a work-related injury or illness will be provided through the Medical Provider Network if your injury or illness occurs on or after July 1, 2006. You still have the option of treating with your personal physician (pursuant to Labor Code Section 4600) if you have properly notified Chaffey Community College District of your desire to treat with your personal physician prior to your injury or illness, and your personal physician agrees to treat you for your work-related injury or illness. If your personal physician is a participating provider then you are automatically covered by the MPN, unless your personal physician was pre-designated. If you already have a work-related injury or illness that occurred prior to the implementation of the Medical Provider Network and your treating physician is or becomes a participating physician then you are automatically covered, or, alternatively, you may request to have your treatment transferred to a participating physician.

For additional information, please review the enclosed/attached pamphlet. To obtain updates to the attached pamphlet on access standards, out-of-area medical treatment, the specialist referral process, and how to obtain a copy of your medical records, or to obtain a complete copy of the Employee Handbook, you may contact Patient Services Department directly via phone at (800) 544-8150, fax (888) 620-6921, or through the web-site: [info@WellComp.com](mailto:info@WellComp.com).

# Access to Medical Care

## Welcome to WellComp

Your employer has elected to provide you with the choice of a broad scope of medical services for work-related injuries and illnesses by implementing a Medical Provider Network (MPN), called WellComp. WellComp delivers quality medical care through your choice of a provider who is part of an exclusive network of healthcare providers, each of whom possess a deep understanding of the California workers' compensation system and the impact their decisions have on you. Your employer has received the approval from the State of California to cover your workers' compensation medical care needs through the WellComp Network. You are automatically covered by the WellComp Network if your date of injury or illness is on or after your employer's MPN implementation date and if you have not properly pre-designated a personal physician prior to your injury or illness.

In the event that you have an injury or illness, you may carry this pamphlet with you to present to your medical service provider for access to care.

*This pamphlet is not required to receive medical services*

### ■ Initial Care

**In case of an emergency, you should call 911 or go to the closest emergency room.**

In the event that you experience a work-related injury or illness, immediately notify your supervisor and obtain medical authorization from your employer to designate an initial care provider within the network. If you are unable to reach your supervisor or employer, please contact the patient services department at WellComp. For non-emergency services, the MPN must ensure that you are provided an appointment for initial treatment within 3 business days of your employer's or MPN receipt of request for treatment within the MPN.

### ■ Subsequent Care

If you still need treatment following your initial evaluation, you may be treated by a physician of your choice, or the initial physician may refer you to a medically and geographically appropriate specialist within the network who can provide the appropriate treatment for your injury or condition. Your employer is required to provide you with at least three physicians of each specialty expected to treat common injuries experienced by injured employees based on your occupation or industry. These physicians will be available within 30 minutes or 15 miles of your workplace or residence and specialists will be available within 60 minutes or 30 miles of your residence or workplace. For a directory of providers, please visit [www.WellComp.com](http://www.WellComp.com) or call WellComp Patient Services.

### ■ Emergency Care

In an emergency, defined as a medical condition starting with the sudden onset of severe symptoms that without immediate medical attention could place your health in serious jeopardy, go to the nearest healthcare provider regardless of whether they are a WellComp participant. If your injury is work-related, advise your emergency care provider to contact WellComp to arrange for a transfer of your care to a WellComp provider at the medically appropriate time.

### ■ Hospital and Specialty Care

Your primary treating provider in the WellComp Network can make all of the necessary arrangements and referrals for specialists, inpatient hospital, outpatient surgery center services, and ancillary care services.

### ■ Choosing a Treating Physician

If you still require treatment after your initial evaluation with your employer's designated provider, you may access the WellComp Directory and select an appropriate physician of your choice who can provide the necessary treatment for your condition or illness. For assistance determining physician options, please contact the Medical Access Assistant in the WellComp Patient Services Department or discuss your options with your initial care provider.

### ■ Scheduling Appointments

If you are having difficulty scheduling an appointment with your initial provider or subsequent provider, please contact the Medical Access Assistant in the WellComp Patient Services Department or your Claims Examiner.

### ■ Changing Primary Treating Physician

If you find it necessary to change your treating physician and it is determined that you require ongoing medical care for your injury or illness, you may select a new physician from the WellComp Directory and schedule an appointment. Once your appointment is scheduled, immediately contact WellComp Patient Services who will then coordinate the transfer of your medical records to your new provider.

### ■ Obtaining a Specialist Referral

As long as you continue to require medical treatment for your injury or illness, there are alternatives for obtaining a referral to a specialist:

1. Your primary treating provider in the WellComp Network can make all of the necessary arrangements for referrals to a specialist. This referral will be made within the network or outside of the network if needed.
2. You may select an appropriate specialist by accessing the WellComp Directory.
3. You may contact your Medical Access Assistants in the WellComp Patient Services who can help coordinate necessary arrangements.

If your primary treating provider makes a referral to a type of specialist not included in the network, you may select a specialist from outside the network.

For non-emergency specialist services, the MPN must ensure that you are provided an appointment within 20 business days of your employer's or MPN receipt of a referral to a specialist within the MPN.

### ■ Continuity of Care

**What if I am being treated by a WellComp doctor and the doctor leaves WellComp?**

Your employer has a written "Continuity of Care" Policy that may allow you to continue treatment with your doctor if your doctor is no longer actively participating in WellComp.

If you are being treated for a work-related injury in the WellComp Network and your doctor no longer has a contract with WellComp, your doctor may be allowed to continue to treat you if your injury or illness meets one of the following conditions:

- **(Acute)** A medical condition that includes a sudden onset of symptoms that require prompt care and has a duration of less than 90 days.
- **(Serious or Chronic)** Your injury or illness is one that is serious and continues for at least 90 days without full cure or worsens and requires ongoing treatment. You may be allowed to be treated by your current treating doctor for up to one year, until a safe transfer of care can be made.
- **(Terminal)** You have an incurable illness or irreversible condition that is likely to cause death within one year or less.
- **(Pending Surgery)** You already have a surgery or other procedure that has been authorized by your employer or insurer that will occur within 180 days of the MPN contract termination date.

If any of the above conditions exist, WellComp may require your doctor to agree in writing to the same terms he or she agreed to when he or she was a provider in the WellComp Network. If the doctor does not, he or she may not be able to continue to treat you.

If the contract with your doctor was terminated or not renewed by WellComp for reasons relating to medical disciplinary cause or reason, fraud or criminal activity, you will not be allowed to complete treatment with that doctor. For a complete copy of the Continuity of Care policy in English or Spanish, please visit [www.WellComp.com](http://www.WellComp.com) or call WellComp Patient Services.

### ■ Transfer of Ongoing Care

**What if you are already being treated for a work-related injury before the WellComp Network begins?**

Your employer has a "Transfer of Care" policy which describes what will happen if you are currently treating for a work-related injury with a physician who is not a member of the WellComp Network. If your current treating doctor is a member of WellComp, then you may continue to treat with this doctor and your treatment will be under WellComp. If your current treating physician is not a participating physician within WellComp and you have not yet been transferred into the MPN, your physician can make referrals to providers within or outside the MPN. Your current doctor may be allowed to become a member of WellComp.

You will not be transferred to a doctor in WellComp if your injury or illness meets any of the following conditions:

- **(Acute)** The treatment for your injury or illness will be completed in less than 90 days.
- **(Serious or Chronic)** Your injury or illness is one that is serious and continues without full cure or worsens over 90 days. You may be allowed to be treated by your current treating doctor for up to one year from the date of receipt of the notification that you have a serious chronic condition.
- **(Terminal)** You have an incurable illness or irreversible condition that is likely to cause death within one year or less. Treatment will be provided for the duration of the terminal illness.
- **(Pending Surgery)** You already have a surgery or other procedure that has been authorized by your employer or insurer that will occur within 180 days of the MPN effective date.
- For a complete copy of the Transfer of Care policy in English or Spanish, please visit [www.WellComp.com](http://www.WellComp.com) or call WellComp Patient Services.

### ■ Care Transfer Disputes

Notice of determination, from the employer or claims examiner, shall be sent to the covered employee's address and a copy of the letter shall be sent to the covered employee's primary treating physician. The notification shall be written in English and Spanish and use layperson's terms to the maximum extent possible. If WellComp is going to transfer your care and you disagree, you may ask your treating doctor for a report that addresses whether you are in one of the categories listed above. Your treating physician shall provide a report to you within twenty calendar days of the request. If the treating physician fails to issue the report, then you will be required to select a new provider from within the MPN. If either WellComp or you do not agree with your treating doctor's report, this dispute will be resolved according to Labor Code Section 4062. You must notify WellComp Patient Services Department if you disagree with this report.

If your treating doctor agrees that your condition does not meet one of those listed above, the transfer of care will go forward while you continue to disagree with the decision. If your treating doctor believes that your condition does meet one of those listed above, you may continue to treat with him or her until the dispute is resolved.

## Second Opinion, Third Opinion and Independent Medical Review Process:

**If you disagree with your doctor or do not like your doctor for any reason, you may always choose another doctor in the MPN.**

### ■ Obtaining Second and Third Opinions

If you disagree with the diagnosis or treatment plan determined by your treating physician or your second opinion physician, and would like a second or third opinion, you must take the following steps:

- ✓ Notify your claims examiner who will provide you with a regional area listing of physicians and/or specialists within the WellComp Network who have the recognized expertise to evaluate or treat your injury or condition.
- ✓ Select a physician or specialist from the list.
- ✓ Within 60 days of receiving the list, schedule an appointment with your selected physician or specialist from the list provided by your claims examiner. Should you fail to schedule an appointment within 60 days, your right to seek another opinion will be waived.
- ✓ Inform your claims examiner of your selection and the appointment date so that we can ensure your medical records can be forwarded in advance of your appointment date. You may also request a copy of your medical records.
- ✓ You will be provided information and a request form regarding the Independent Medical Review (IMR) process at the time you select a third opinion physician. Information about the IMR process can be found in the MPN Employee Handbook.

If the Second/Third opinion doctor feels that your injury is outside of the type of injury he or she normally treats, the doctor's office will notify your employer or insurer. You will get another list of MPN doctors or specialists so you can make another selection.

If the 2nd/3rd opinion doctor agrees with your need for a treatment or test, you may be allowed to receive that recommended treatment or test from a provider inside or outside the MPN, including the 2nd or 3rd opinion physician.

### ■ Obtaining an Independent Medical Review (IMR)

If you disagree with the diagnosis or treatment plan determined by the third opinion physician, you may file the completed MPN Independent Medical Review Application form with the Administrative Director of the Division of Workers' Compensation. You may contact your claims examiner or the WellComp Patient Services Department for information about the Independent Medical Review process and the form to request an Independent Medical Review.

If the second opinion, third opinion or IMR agrees with your treating doctor, you will need to continue to receive medical treatment with a network physician if MPN contains a physician who can provide the recommended treatment. If the IMR does not agree with your treating network physician, you will be allowed to receive that medical treatment from a provider either inside or outside of the WellComp Network.

Any physician chosen outside of the WellComp Network must be within reasonable geographic area. The treatment or diagnostic test is limited to the recommendation of the MPN/ IMR.

### ■ Treatment Outside of the Geographic Area

WellComp has providers throughout California. If a situation arises which takes you out of the coverage area, such as temporary work, travel for work, or living temporarily or permanently outside the MPN geographic service area, please contact the WellComp Patient Services Department, your claims examiner, or your primary treating provider, and they will provide you with a selection of at least 3 approved out-of-network providers from whom you can obtain treatment or get second and third opinions from the referred selection of physicians.

## Covered Medical Services:

The following is a summary of Workers' Compensation medical services that are available to employees covered by the WellComp Network.

### Primary treating and specialty services including consultations and referrals

*Examples of primary treating or specialty providers include: general medical practitioners, chiropractors, dentists, orthopedists, surgeons, physiotherapists, internists, psychiatrists, cardiologists, neurologists.*

### Inpatient Hospital and Outpatient Surgery Center services

*Examples of inpatient hospital and outpatient surgery center providers include: acute hospital services, general nursing care, operating room and related facilities, intensive care unit and services, diagnostic lab or x-ray services, necessary therapies.*

### Ancillary Care services

*Examples of ancillary care providers include: diagnostic lab or x-ray services, physical medicine, occupational therapy, medical and surgical equipment, counseling, nursing, medically appropriate home care, medication.*

### Emergency services including outpatient and out-of area emergency care



## WellComp Provider Directory

For more information about the MPN including access to a roster of all treating physicians in the MPN, go to [www.WellComp.com](http://www.WellComp.com) where you can search by medical specialty, zip code, physician or provider group. For website assistance or to access a hard copy of the regional area listing and/or an electronic copy of the complete WellComp directory, please contact WellComp (your employer's designated medical provider network administrator):

## WellComp Information

For questions about the use of MPN's or complaints The MPN contact is: Gale Chmidling, MPN Manager (800)544-8150

WellComp has individuals available to answer questions, provide website assistance, and generate provider listings. Medical Access Assistants are available to assist with finding an MPN physicians of your choice, including scheduling and confirming physician appointments. Assistants are available 7am to 8pm Pacific Standard Time, Monday through Saturday at the contact information below:

**WellComp**  
**Patient Services Department**  
P.O. Box 59914  
Riverside, CA 92517  
Toll Free (800) 544-8150  
fax: (888) 620-6921 or  
e-mail: [info@WellComp.com](mailto:info@WellComp.com)



## Employee Notification

This pamphlet contains important information on accessing the WellComp Medical Provider Network:

- ✓ Find out if you are covered
- ✓ Access medical care
- ✓ Learn about continuity of care
- ✓ Choose your own physician
- ✓ Transfer into the WellComp Network
- ✓ Contact WellComp

MPN Identification Number:

This pamphlet is available in Spanish. For a free copy, please contact WellComp Medical Provider Network.

Este folleto esta disponible en el Español. Para una copia gratis, favor de llamar a WellComp Medical Provider Network



## **BP 3430 Prohibition of Harassment**

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

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

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

This policy applies to all aspects of the academic and work 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 Superintendent/President shall commit to academic freedom, but maintain that academic freedom does not allow sexual harassment or any other form of unlawful harassment or discrimination. The lecture, content, and discourse that are an intrinsic part of the course content shall in no event constitute sexual harassment or other form of unlawful harassment or discrimination. It is recognized that an essential function of



## **BP 3430 Prohibition of Harassment**

education is a probing of received opinions and an exploration of ideas that may cause some students discomfort. It is further recognized that academic freedom ensures the faculty's right to teach and the student's right to learn. Finally, nothing in this policy shall be interpreted to prohibit bona fide academic requirements for a specific program, course, or activity. To the extent the harassment policies and procedures are in conflict with the District's policy on academic freedom, the harassment policies and procedures shall prevail. If the faculty member wishes to use sexually explicit materials and examples that are incompatible with the course objectives as outlined in the course outline of record, the faculty member will review that use with the Chief Human Resources Officer to determine whether or not this conflicts with the harassment policy.

The Superintendent/President shall establish administrative procedures to ensure that the institution undertakes education and training activities to counter discrimination and to prevent, minimize and/or eliminate any unlawful harassment, including the creation of a hostile environment, that impairs access to equal education opportunity or impacts the terms and conditions of employment.

The Superintendent/President shall establish administrative procedures that define unlawful harassment in an academic and work environment. The Superintendent/President shall further establish administrative procedures that provide for the investigation and resolution of complaints regarding harassment and discrimination. All individuals who interact with the District are protected from retaliatory acts by the District, its employees, students, and agents.

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

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

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

Policy  
Category: Executive Expectations



## **BP 3430 Prohibition of Harassment**

Adopted: 10/24/13  
*(Replaces former Board Policy 3.6)*



## AP 3430 Prohibition of Harassment

The District is committed to providing an academic and work environment free of unlawful harassment. This procedure defines sexual harassment and other forms of harassment 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 District.

This procedure and the related policy protects students and employees in connection with all the academic, educational, extracurricular, athletic, and other programs related to an academic or work activity of the District whether the programs or activities occur on or off campus.

### Definitions

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

- **Verbal** – Inappropriate or offensive remarks, slurs, jokes, or innuendoes based on a person's race, gender, sexual orientation, or other protected status. This may include, but is not limited to, inappropriate comments regarding an individual's body, physical appearance, attire, sexual prowess, marital status, or sexual orientation; unwelcome flirting or propositions; demands for sexual favors; verbal abuse, threats, or intimidation; or sexist, patronizing, or ridiculing statements that convey derogatory attitudes based on gender, race, nationality, sexual orientation, or other protected status.
- **Physical** – Inappropriate or offensive touching, assault, or physical interference with free movement. This may include, but is not limited to, kissing, patting, lingering or intimate touches, grabbing, pinching, leering, staring, unnecessarily brushing against or blocking another person, whistling, or sexual gestures. It also includes any physical assault or intimidation directed at an individual due to that person's gender, race, national origin, sexual orientation, or other protected status. Physical sexual harassment includes acts of sexual violence, such as rape, sexual assault, sexual battery, and sexual coercion. Sexual violence refers

## **AP 3430 Prohibition of Harassment**

to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's use of drugs or alcohol. An individual also may be unable to give consent due to an intellectual or other disability.

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

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

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



## AP 3430 Prohibition of Harassment

This definition encompasses two kinds of sexual harassment:

- **"Quid pro quo"** sexual harassment occurs when a person in a position of authority makes educational or employment benefits conditional upon an individual's willingness to engage in or tolerate unwanted sexual conduct.
- **"Hostile environment"** sexual harassment occurs when unwelcome conduct based on a person's gender is sufficiently severe or pervasive so as to alter the conditions of an individual's learning or work environment, unreasonably interfere with an individual's academic or work performance, or create an intimidating, hostile, or abusive learning or work environment. The victim must subjectively perceive the environment as hostile, and the harassment must be such that a reasonable person of the same gender would perceive the environment as hostile. A single or isolated incident of sexual harassment may be sufficient to create a hostile environment if it is severe, i.e. a sexual assault.

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

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

- **Verbal:** Inappropriate or offensive remarks, slurs, jokes, or innuendoes based on a person's protected status, including but not limited to sex. This may include, but is not limited to, inappropriate comments regarding an individual's body, physical appearance, attire, sexual prowess, marital status or sexual orientation; unwelcome flirting or propositions; demands for sexual favors; verbal abuse, threats, or intimidation of a sexual nature; or sexist, patronizing, or ridiculing statements that convey derogatory attitudes about a particular gender.
- **Physical:** Inappropriate or offensive touching, assault, or physical interference with free movement. This may include, but is not limited to, kissing, patting, lingering or intimate touches, grabbing, pinching, leering, staring, unnecessarily brushing against or blocking another person, whistling or sexual gestures.
- **Visual or Written:** The display or circulation of offensive sexually oriented or other discriminatory visual or written material. This may include, but is not limited to, posters, cartoons, drawings, graffiti, reading materials, computer graphics, or electronic media transmissions.
- **Environmental:** An academic or work environment that is permeated with racially or sexually-oriented talk, sexual innuendo, insults, or abusive, or



## **AP 3430 Prohibition of Harassment**

gratuitous comments not relevant to the subject matter of the class or activities on the job. A hostile environment can arise from an unwarranted focus on sexual topics or sexually suggestive statements in the classroom or work environment. An environment may be hostile if unwelcome sexual behavior or other harassing behavior based on a protected status is directed specifically at an individual or if the individual merely witnesses unlawful harassment in his/her immediate surroundings. The determination of whether an environment is hostile is based on the totality of the circumstances, including such factors as the frequency of the conduct, the severity of the conduct, whether the conduct is humiliating or physically threatening, and whether the conduct unreasonably interferes with an individual's learning or work.

### **Consensual Relationships**

Romantic or sexual relationships between supervisors and employees, or between administrators, faculty, or staff members and students are discouraged. There is an inherent imbalance of power and potential for exploitation in such relationships. A conflict of interest may arise if the administrator, faculty, or staff member must evaluate the student's or employee's work or make decisions affecting the employee or student. The relationship may create an appearance of impropriety and lead to charges of favoritism by other students or employees. A consensual sexual relationship may change and result in a harassment complaint. Upon receiving the complaint, the District may take appropriate corrective action prior to and during the investigation. This may include an offer of a change of location to any involved employee to eliminate or attenuate the supervisory authority of one over the other, of a teacher over a student, or peer-to-peer. Such change of location by the District is a proactive and preventive measure and does not constitute discipline against any affected employee or student. Upon conclusion of the investigation, appropriate District action will be determined.

### **Training**

All new supervisory employees must be provided with the training and education within six months of their assumption of a supervisory position. The District provides subsequent 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

## **AP 3430 Prohibition of Harassment**

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 is required of all regular employees and of all temporary employees who regularly interact with students. Training for academic employees should emphasize hostile environment harassment in the classroom. The District will also provide training to students who lead student organizations. At the time of employment, the District provides copies of the sexual harassment policies and procedures to all employees.

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

Upon completion of training, 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 District's potential liability, or that they did not understand the policy and desire further training.

### **Education and Prevention for Students**

In order to take proactive measures to prevent sexual harassment and violence toward students, the District will provide preventive education programs and make victim resources, including comprehensive victim services, available. The District includes such programs for student leaders, designated student workers, athletes, and coaches. These programs include discussion of what constitutes sexual harassment and sexual violence, the District's policies and disciplinary procedures, and the consequences of violating these policies.

The education programs will also include information aimed at encouraging students to report incidents of sexual violence to the appropriate District and law enforcement authorities. Since victims or third parties may be deterred from reporting incidents if alcohol, drugs, or other violations of District or campus rules were involved, the District will inform students that the primary concern is for student safety and that use of alcohol or drugs never makes the victim at fault for sexual violence. If other rules are violated, the District will address such violations separately from an allegation of sexual violence.

Also see BP/AP 3410 titled Nondiscrimination and AP 3435 titled Discrimination and Harassment Investigations



## **AP 3430 Prohibition of Harassment**

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

Approved: 8/20/13





## **BP 3410 Nondiscrimination**

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

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

No District funds shall ever be used for membership, or for any participation involving financial payment or contribution on behalf of the District or any individual employed by or associated with the District acting on its behalf, 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, or pregnancy.

In addition, no District funds shall ever be used for membership, or for any participation involving financial payment or contribution on behalf of the District or any individual employed by or associated with the District acting on its behalf, to any private organization whose membership practices are discriminatory because an individual is perceived to have one or more of the foregoing characteristics, or because of an individual's association with a person or group with one or more of these actual or perceived characteristics.

References: Education Code Sections 66250 et seq., 72010 et seq., and 87100 et seq.;  
Government Code Sections 12926.1 and 12940 et seq.;  
Penal Code Section 422.55;  
Title 5 Sections 53000 et seq. and 59300 et seq.

Policy

Category: Executive Expectations



## **BP 3410 Nondiscrimination**

Adopted: 10/24/13  
*(Replaces former Board Policy 3.4)*



## **AP 3410 Nondiscrimination**

### **Educational Programs**

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

Pursuant to Education Code Section 72011, all courses, including noncredit classes, shall be conducted without regard to the gender of the student enrolled in the classes. As defined in the Penal Code, "gender" means sex, and includes a person's gender identity and gender expression. "Gender expression" means a person's gender-related appearance and behavior whether or not stereotypically associated with the person's assigned sex at birth. The District shall not prohibit any student from enrolling in any class or course on the basis of gender. Academic employees, 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 District shall offer opportunities for participation in athletics equally to male and female students.

### **Employment**

Pursuant to Government Code Sections 12940 et seq., the District shall provide equal employment opportunities to all applicants and employees regardless of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or status as a Vietnam-era veteran.

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

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

### **General Conditions**

A copy of the District's nondiscrimination and prohibition of harassment policies and procedures shall be displayed in prominent locations in the main administration building



## **AP 3410 Nondiscrimination**

and in other areas where notices regarding the institution's rules, regulations, procedures, and standards of conduct are posted.

The Chief Human Resources Officer, or designee, is responsible for providing training to employees and students on the District's nondiscrimination and prohibition of harassment policies and procedures. See AP 3430 titled Prohibition of Harassment for details regarding training requirements.

The Chief Human Resources Officer, or designee, has the primary delegated responsibility as the compliance officer for the District. An unlawful discrimination/harassment complaint may be filed with the Chief Human Resources Officer, or initiated with any District administrator. (Also see AP 3435 titled Discrimination and Harassment Investigations)

Also see BP/AP 3430 titled Prohibition of Harassment and AP 3435 titled Discrimination and Harassment Investigations

References: Education Code Sections 66250 et seq., 200 et seq., 72010 et seq., and 87100 et seq.;  
Government Code Sections 11135 et seq. and 12940 et seq.  
Penal Code Sections 422.55 et seq.;  
Title 5 Sections 53000 et seq. and 59300 et seq.;  
WASC/ACCJC Accreditation Standard II.B.2.c;

Approved: 8/20/13  
(Replaces former Administrative Procedure 3.4/3.6)



## **AP 3435 Discrimination and Harassment Investigations**

The District is committed to providing an academic and work environment free from unlawful discrimination and harassment. This procedure outlines the process for investigating unlawful discrimination and harassment complaints.

### **Filing a Timely Complaint**

Since failure to report unlawful discrimination and harassment impedes the District's ability to stop the behavior, the District strongly encourages those who believe they are being discriminated or harassed against, to file a complaint. The District also strongly encourages the filing of such complaints within 30 days of the alleged incident. While all complaints are taken seriously and will be investigated promptly, delay in filing impedes the District's ability to investigate and remediate.

Managers, faculty, and staff members have a mandatory duty to report incidents of discrimination and harassment; the existence of a hostile, offensive or intimidating work environment, and acts of retaliation.

The District shall promptly investigate every complaint of unlawful discrimination or harassment. No claim of workplace or academic discrimination or harassment shall remain unexamined. This includes complaints involving activities that occur on or off campus in connection with academic, educational, extracurricular, athletic, and other programs related to an academic or work activity of the District.

### **Communicating that the Conduct is Unwelcome**

The District further encourages, however does not require, students and employees 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 is the "responsible District 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, to other Human Resource administrator(s), or to outside persons/organizations under contract with the District. Investigations of complaints assigned to other Human Resource administrator(s) or to outside persons/organizations under contract with the District shall occur whenever the Chief Human Resources Officer is named in the complaint or implicated by the allegations in the complaint.

## **AP 3435 Discrimination and Harassment Investigations**

### **Who May File a Complaint**

Any student, employee, or third party who believes he/she has been discriminated against or harassed by a student, employee, or third party in violation of this procedure and the related policy.

### **Where to File a Complaint**

A student, employee, or third party who believes he/she has been discriminated against or harassed in violation of these 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 District, he/she must file the complaint on a form prescribed by the State Chancellor's Office. These approved forms are available from the Chief Human Resources Officer and on the State Chancellor's website under the discrimination link on the Legal Division page.

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

- the Chief Human Resources Officer;
- Superintendent/President; and/or
- the State Chancellor's Office.

Employee complainants shall be notified that they may file employment discrimination complaints with the U.S. Equal Employment Opportunity Commission (EEOC) or the California Department of Fair Employment and Housing (DFEH).

Complaints filed with the EEOC and/or the DFEH should be forwarded to the State Chancellor's Office.

Any District employee who receives a harassment or discrimination complaint shall notify the Chief Human Resources Officer immediately.

### **Intake and Processing of the Complaint**

Upon receiving notification of a harassment or discrimination complaint, the Chief Human Resources Officer shall determine whether the complaint alleges unlawful discrimination, harassment, or retaliation. If the complaint alleges unlawful discrimination, harassment, or retaliation, the following process shall be initiated:



## **AP 3435 Discrimination and Harassment Investigations**

### **Informal Resolution**

If the notification is informally submitted, the Chief Human Resources Officer shall:

- Undertake efforts to informally resolve the charges of discrimination and/or harassment. Individuals participating in the informal resolution of a complaint may include the Chief Human Resources Officer or designee, the complainant, the alleged harasser, and the appropriate manager. The purpose of any meeting shall be to discuss the issue(s) and to seek appropriate action to reach an acceptable resolution which may include, but are not limited to, mediation, rearrangement of work/academic schedules, informal counseling and/or training, etc. Mediation is not appropriate for resolving incidents involving sexual violence.
- Advise the complainant that he/she need not participate in an informal resolution of the complaint, as described above, and has the right to end the informal resolution process at any time.
- Notify the complainant, at the time he/she files an informal complaint, of his/her right to file a formal complaint and the procedures for filing a formal complaint.
- Advise a student complainant that he/she may file a complaint with the Office for Civil Rights of the U.S. Department of Education. An employee complainant may file a complaint with the Department of Fair Employment and Housing. In addition, the District should ensure that complainants are aware of any available resources, such as contacting local law enforcement or seeking counseling, health, and/or mental health services. The District must investigate even if the complainant files a complaint with local law enforcement.
- Where complainants request an 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.

### **Formal Resolution**

When a formal written complaint is filed, the Chief Human Resources Officer may continue to exercise steps outlined in the informal process. In addition, the complainant and the accused shall be notified that an investigation will be initiated. The Chief Human Resources Officer shall:

- Take interim steps to protect a complainant from coming into contact with an accused individual, especially if the complainant is a victim of sexual violence. The Chief Human Resources Officer should notify the complainant of his/her options to avoid contact with the accused individual and allow students to change

## **AP 3435 Discrimination and Harassment Investigations**

academic situations as appropriate. For instance, the District may prohibit the accused individual from having any contact with the complainant pending the results of the investigation. When taking steps to separate the complainant and accused individual, the District shall minimize the burden on the complainant. For example, it is not appropriate to require removal of the complainant(s) from classes while allowing accused individuals to remain.

- Authorize the investigation of the complaint and supervise and/or conduct a thorough, prompt and impartial investigation of the complaint, as set forth below. The investigation will include interviews with the complainant, the accused, and any other persons who may have relevant knowledge concerning the complaint.
- 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 statements from each witness, an analysis of any relevant data or other evidence collected during the investigation, a specific finding as to whether there is probable cause to believe that discrimination did or did not occur with respect to each allegation in the complaint, a description of actions the District will take to prevent similar conduct, the proposed resolution of the complaint, and the complainant's right to file a written appeal to the District's Governing Board. If the complainant is a student and wishes to appeal the Governing Board decision, he/she has the right to appeal to the State Chancellor. If the complainant is an employee, the report shall include the right to file an administrative complaint with the Department of Fair Employment and Housing. The report may contain any other appropriate information.
- Provide the complainant with a copy or summary of the investigative report within 90 days from the date the District received the complaint. The complainant and accused shall also be provided with a written notice setting forth the determination of the Superintendent/President or designee as to whether harassment or other discriminatory conduct did or did not occur with respect to each allegation in the complaint; a summary of administrative 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 as described above. 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





## **AP 3435 Discrimination and Harassment Investigations**

complainant shall be prepared so as not to violate any applicable privacy rights of the accused.

The District 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. When determining whether to maintain confidentiality, the District may weigh the request for confidentiality against the following factors: the seriousness of the alleged harassment; the complainant’s age; whether there have been other harassment complaints about the same individual; and the accused individual’s rights to receive information about the allegations if the information is maintained by the District as an “education record” under the Family Educational Rights and Privacy Act (FERPA), 20 U.S. Code Section 1232g; 34 Code Federal Regulations Part 99.15. The District will inform the complainant if it cannot maintain confidentiality.

### **Investigation Steps**

The District will fairly and objectively investigate unlawful discrimination or harassment complaints. Employees designated to serve as investigators under this process shall have adequate training on what constitutes sexual harassment, including sexual violence, and they will understand how the District’s grievance procedures operate. The investigator may not have any real or perceived conflicts of interest and must be able to investigate the allegations impartially.

Investigators will complete the following:

- interview the complainant(s);
- interview the accused individual(s);
- identify and interview witnesses and evidence identified by each party;
- identify and interview any other witnesses, if needed;
- remind all individuals interviewed of the District’s no-retaliation policy;
- recommend whether any involved person should be removed from the campus pending completion of the investigation;
- may review personnel/academic files of involved parties;
- reach a conclusion as to the allegations and recommend any appropriate corrective and/or remedial action; and
- ensure that all recommended action is carried out in a timely fashion.



## **AP 3435 Discrimination and Harassment Investigations**

When the District evaluates the complaint, it shall do so using a preponderance of the evidence standard. Thus, after considering all the evidence it has gathered, the District will decide whether it is more likely than not that discrimination or harassment has occurred.

### **Timeline for Completion**

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

### **Cooperation Encouraged**

All employees are expected to cooperate with a District investigation into allegations of unlawful discrimination or harassment. Lack of cooperation impedes the ability of the District to investigate thoroughly and respond effectively. However, lack of cooperation by a complainant or witnesses does not relieve the District of its obligation to investigate. The District will conduct an investigation if it is discovered that unlawful discrimination or 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 unlawful discrimination, harassment, and/or retaliation occurred in violation of BP/AP 3430 titled Prohibition of Harassment or this procedure, the District shall take corrective 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. Remedies for the complainant might include, but are not limited to:

- providing an escort to ensure that the complainant can move safely between classes and activities;
- ensuring that the complainant and alleged perpetrator do not attend the same classes or work in the same work area;
- preventing offending third parties from entering campus;
- providing counseling services, medical services, and/or other academic support services, such as tutoring;
- arranging for a student complainant to re-take a course or withdraw from a class without penalty, including ensuring that any changes do not adversely affect the complainant's academic record; and



## **AP 3435 Discrimination and Harassment Investigations**

- reviewing any disciplinary actions taken against the complainant to see if there is a causal connection between the harassment and the misconduct that may have resulted in the complainant being disciplined.

If discipline is imposed, the nature of the discipline will not be communicated to the complainant. However, the District may disclose information about the sanction imposed on an individual who was found to have engaged in harassment when the sanction directly relates to the complainant; for example, the District may inform the complainant that the harasser must stay away from 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 District 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 District will ensure that complainants and witnesses know how to report any subsequent problems. The District 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 District's ability to investigate and respond effectively to the complaint.

If the District cannot take corrective action against the accused individual because the complainant refuses to participate in the investigation, it should pursue other steps to limit the effects of the alleged harassment and prevent its recurrence.

### **Appeals**

If the District imposes discipline against a student or employee as a result of the findings in its investigation, the student or employee may appeal the decision using the procedure for appealing a disciplinary decision.

If the complainant is not satisfied with the results of the administrative determination, he/she may, within 15 days, submit a written appeal to the Governing Board. The Board shall review the original complaint, the investigative report, the administrative decision, and the appeal. The Board shall issue a final District decision in the matter within 45 days after receiving the appeal. Where the Governing Board does not act within 45 days, the administrative determination must be deemed approved and must become the final District decision.



## **AP 3435 Discrimination and Harassment Investigations**

**Student/Non-Employment Related Cases:** A copy of the decision rendered by the Governing Board shall be forwarded to the complainant and to the State Chancellor's Office. The complainant shall also be notified of his/her right to appeal this decision.

The complainant shall have the right to file a written appeal with the State Chancellor's Office within 30 days after the Board issued the final District decision or permitted the administrative decision to become final. Such appeals shall be processed pursuant to the provision of Title 5 Section 59350.

Within 150 days of receiving a formal complaint, the District shall forward to the State Chancellor's Office 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 or indicating the date upon which the decision became final, and a copy of the notification to the complainant of his/her appeal rights. If, due to circumstances beyond its control, the District 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.

**Employment Related Cases:** 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 District, file a complaint with the U.S. Equal Employment Opportunity Commission (EEOC) or Department of Fair Employment and Housing (DFEH). The District shall forward a copy of the decision rendered by the Governing Board to the complainant and will include notification of his/her right to file a complaint with the EEOC or DFEH.

### **Dissemination of Policy and Procedures**

District policy and procedures related to harassment will include information that specifically addresses sexual violence. District policy and procedures 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 and on the District's website.

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 District's course catalogs and orientation materials for new students.

Also see BP/AP 3410 titled Nondiscrimination and BP/AP 3430 titled Prohibition of Harassment



## **AP 3435 Discrimination and Harassment Investigations**

References: Education Code Section 66281.5;  
Government Code Section 12950.1;  
Title 5 Sections 59320, 59324, 59326, 59328, 59338, 59339, 59340 and  
59300 et seq.;  
34 Code of Federal Regulations Section 106.8(b)

Approved: 8/20/13  
*(Replaces former Administrative Procedure 3.4/3.6)*



## **BP 3500 Campus Safety**

The Governing Board is committed to a safe and secure District work and learning environment. To that end, the Superintendent/President shall establish a Campus Safety Plan and ensure that it is posted or otherwise made available to students. The Campus Safety Plan shall include availability and location of security personnel, methods for summoning assistance of security personnel, any special safeguards that have been established, any actions taken in the preceding 18 months to increase safety, and any changes in safety precautions to be made during the next 24 months.

Reference: Education Code Section 67380(a)(4)

Policy

Category: Executive Expectations

Adopted: 10/24/13



## **BP 3505 Emergency Operations Plan**

The District shall have emergency response and evacuation procedures for notifying the campus community in the event of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students, employees, and visitors occurring at facilities owned or operated by the District.

The Superintendent/President shall establish procedures that ensure that the District implements a plan to be activated in the event of an emergency or the occurrence of a natural disaster or hazardous condition. This plan must comply with the National Incident Management System (NIMS), the Standardized Emergency Management System (SEMS) and should incorporate the functions and principles of the Incident Command System (ICS), the Master Mutual Aid Agreement (MMAA) and any other relevant programs. The plan must incorporate NIMS and SEMS to facilitate the coordination between and among agencies in the event of an emergency or natural disaster.

Compliance with NIMS and SEMS mandates include but are not limited to:

- Establishing disaster preparedness procedures or a plan; and
- Completion of training sessions by District personnel in compliance with NIMS and SEMS guidelines.

Training requirements vary based on job titles or assigned roles within the emergency plan.

Pursuant to Government Code Sections 3100 et seq., District personnel must be informed that as public employees, they are also disaster service workers during national, state, and local emergencies. The District must ensure that its employees are in compliance with the disaster service worker oath requirements.

The Superintendent/President should ensure that a team is created to carry out compliance with NIMS and SEMS mandates. The responses to emergencies or natural disasters are organized by SEMS into five categories: field response, local government, operational areas, regions, and state.

The plan should contain information regarding activation and chain of command responsibilities. Compliance with NIMS requires planning and incorporation for all phases of emergency management including mitigation and prevention, preparedness, response, and recovery. The District will regularly update the plan. The District must comply with NIMS and SEMS to receive state or federal funding.



## **BP 3505 Emergency Operations Plan**

References: Education Code Sections 32280 et seq. and 71095;  
Government Code Sections 3100 and 8607(a);  
Homeland Security Act of 2002;  
National Fire Protection Association 1600;  
Homeland Security Presidential Directive-5;  
Executive Order S-2-05;  
19 California Code of Regulations Sections 2400-2450;  
34 Code of Federal Regulations 668.46(g)

Policy

Category: Executive Expectations

Adopted: 10/24/13





## **BP 3510 Workplace Violence Prevention Plan**

The Governing Board is committed to providing a District work and learning environment that is free of violence and the threat of violence. The Governing Board's priority is the effective handling of critical workplace violence incidents, including those dealing with actual or potential violence.

The Superintendent/President shall establish administrative procedures that assure that employees are informed regarding what actions will be considered violent acts, and requiring any employee who is the victim of any violent conduct in the workplace, or is a witness to violent conduct to report the incident to Campus Police Department and/or local law enforcement and their immediate supervisor and/or Chief Human Resources Officer. There will be no retaliation for such reporting.

References: Cal/OSHA: Labor Code Sections 6300 et seq;  
8 California Code of Regulations Section 3203;  
"Workplace Violence Safety Act of 1994" (Code of Civil Procedure Section 527.8 and Penal Code Sections 273.6 and 12021)

Policy

Category: Executive Expectations

Adopted: 10/24/13  
(Replaces former Board Policy 3.7.2)



## **BP 3515 Reporting of Crimes**

The Superintendent/President shall assure that, as required by law, reports are prepared of all occurrences reported to Campus Police of arrests for crimes committed on campus that involve violence, hate violence, theft, or destruction of property, illegal drugs, or alcohol intoxication. The Superintendent/President shall further assure that required reports of non-criminal acts of hate violence are prepared. Such reports shall be made available as required by law.

Reference: Education Code Section 67380

Policy

Category: Executive Expectations

Adopted: 10/24/13

*(Replaces former Board Policy 3.7.3)*



## **BP 3540 Sexual and Other Assaults on Campus**

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 District property, is a violation of District policies and procedures, and is subject to all applicable punishment, including criminal prosecution 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 Superintendent/President 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 shall meet the criteria contained in the state and federal statutes cited below.

References: Education Code Sections 67382 and 67385;  
20 U.S. Code Section 1092(f);  
34 Code of Federal Regulations Section 668.46(b)(11)

Policy

Category: Executive Expectations

Adopted: 10/24/13

*(Replaces former Board Policy 3.7.6)*



**Harassment and discrimination in employment, housing, public accommodations, and services are against the law.**



**Department of Fair Employment and Housing**

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### **Hate Violence**

Under the *Ralph Civil Rights Act*, it is against the law for any person to threaten or commit acts of violence against a person or property based on race, color, religion, ancestry, national origin, age, disability, gender, sexual orientation, political affiliation, or position in a labor dispute.

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### **Filing a Complaint**

If you believe you are a victim of illegal discrimination or hate violence, you can file a complaint with DFEH by following these steps:

- Contact us at (800) 884-1684 (employment, public accommodation, and hate violence) and (800) 233-3212 (housing)
- Be prepared to present specific facts about the alleged harassment, discrimination, or denial of leave
- Provide copies of documents that support the charges in the complaint
- Keep records and documents about the complaint, such as paycheck stubs, rent receipts, membership applications, and other materials

DFEH will conduct an impartial investigation. We are not an advocate for either the person complaining or the person complained against. We represent the State of California. DFEH will, if possible, try to assist both parties to resolve the complaint.

If a voluntary settlement cannot be reached, and there is sufficient evidence that establishes a violation of the law, DFEH may issue an accusation and litigate the case before the Fair Employment

and Housing Commission or in civil court. If the Commission or a court decides in favor of the complaining party, the following remedies can be ordered:

- Award of the job or the housing denied to the complainant, or similar relief
- Back pay or promotion for the complainant, or compensation for moving and relocation
- Compensatory damages for the complainant, including emotional distress damages
- Fines, penalties, or punitive damages

For more information, contact DFEH toll free at  
**(800) 884-1684**  
(employment, public accommodation, and hate violence)  
**(800) 233-3212** (housing)  
Oakland area & out-of-state at **(510) 622-2945**  
Sacramento area & out-of-state at **(916) 227-0551**  
TTY number at **(800) 700-2320**  
or visit our web site at **[www.dfeh.ca.gov](http://www.dfeh.ca.gov)**

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**State of California**  
Department of Fair Employment & Housing

DFEH-151 (04/04)

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## **Discrimination is Against the Law**

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### **Civil Rights in California**

The Department of Fair Employment and Housing (DFEH) enforces California state laws that prohibit harassment and discrimination in employment, housing, and public accommodations and that provide for pregnancy leave and family and personal medical leave. It also accepts and investigates complaints alleging hate violence or threats of hate violence.

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### **What DFEH Does**

DFEH enforces these laws by

- Investigating harassment, discrimination, and denial of leave complaints
- Assisting parties to voluntarily resolve complaints involving alleged violations of the laws enforced by DFEH
- Prosecuting violations of the law
- Educating Californians about the laws prohibiting harassment and discrimination by providing written materials and participating in seminars and conferences

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### **Discrimination in Employment**

The California *Fair Employment and Housing Act* (FEHA) prohibits harassment and discrimination in employment based on the following:

- Race
- Color



The mission of the Department of Fair Employment and Housing is to protect the people of California from unlawful discrimination in employment, housing and public accommodations, and from the perpetration of acts of hate violence.

- Religion
- Sex (gender)
- Sexual orientation
- Marital status
- National origin (including language use restrictions)
- Ancestry
- Disability (mental and physical, including HIV and AIDS)
- Medical condition (cancer/genetic characteristics)
- Age (40 and above)
- Request for family care leave
- Request for leave for an employee's own serious health condition
- Request for Pregnancy Disability Leave
- Retaliation for reporting patient abuse in tax-supported institutions

Discrimination is prohibited in **all** employment practices, including the following:

- Advertisements
- Applications, screening, and interviews
- Hiring, transferring, promoting, terminating, or separating employees
- Working conditions
- Participation in a training or apprenticeship program, employee organization, or union

California workers are

- Guaranteed leaves if disabled because of pregnancy
- Guaranteed reasonable accommodation for pregnancy

- Guaranteed leaves for the birth or adoption of a child; for the employee's own serious health condition; or to care for a parent, spouse, or child with a serious health condition
- Protected from harassment because of their sex, race, or any other category covered under the law
- Protected from retaliation for filing a complaint with DFEH, for participating in the investigation of a complaint, or for protesting possible violations of the law

California workers with disabilities are also entitled to reasonable accommodation when necessary in order to perform the job.

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### ***Discrimination in Housing***

FEHA also prohibits discrimination in the rental and sale of housing based on the following:

- Race
- Color
- Religion
- Sex (gender)
- Sexual orientation
- Marital status
- National origin (including language use restrictions)
- Ancestry
- Familial status (households with children under age 18)
- Source of income\*
- Disability (mental and physical, including HIV and AIDS)
- Medical condition (cancer/genetic characteristics)
- Age

\*Until 12/31/04 unless extended by statute.

Discrimination is prohibited in **all** aspects of the housing business, including, but not limited to:

- Advertisements
- Mortgage lending and insurance
- Application and selection processes
- Terms, conditions, and privileges of occupancy, including freedom from harassment
- Public and private land-use practices, including the existence of restrictive covenants

Persons with disabilities are entitled to reasonable accommodation in rules, policies, practices, and services and are also permitted, at their own expense, to reasonably modify their dwelling to ensure full enjoyment of the premises.

As in employment discrimination law, persons are protected from retaliation for filing complaints.

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### ***Discrimination in Public Accommodations and Services***

Discrimination in public services and accommodations is prohibited under the *Unruh Civil Rights Act*. The law requires "full and equal accommodations, advantages, facilities, privileges, or services in **all** business establishments." Business establishments covered by the law include, but are not limited to:

- Hotels and motels
- Nonprofit organizations
- Restaurants
- Theaters
- Hospitals
- Barber shops and beauty salons
- Housing accommodations
- Local government and public agencies
- Retail establishments



Employment discrimination and harassment based on a person's disability or perceived disability are prohibited.



Department of Fair Employment and Housing

### Filing a Complaint

Employees or job applicants who believe that they have been discriminated against or harassed because of a disability may, within **one year** of the alleged discrimination, file a complaint with DFEH by calling (800) 884-1648. DFEH processes complaints filed by persons with terminal illnesses on a priority basis.

DFEH serves as a neutral fact-finder and attempts to help the parties voluntarily resolve disputes. If DFEH finds sufficient evidence of discrimination and settlement efforts fail, the Department may file a formal accusation. The accusation may lead to either a public hearing before the Fair Employment and Housing Commission or a lawsuit filed by DFEH on behalf of the complaining party.

If the Commission or court finds that discrimination has occurred, it can order remedies including:

- Fines or damages for emotional distress from each employer or person found to have violated the law
- Hiring or reinstatement
- Back pay or promotion
- Changes in the policies or practices of the involved employer

Employees can also pursue the matter through a private lawsuit in civil court after a complaint has been filed with DFEH and a Right-to-Sue Notice has been issued.

For more information, see DFEH publication 159 "Guide for Complainants and Respondents."

For more information, contact DFEH toll free at  
**(800) 884-1684**  
Sacramento area & out-of-state at **(916) 227-0551**  
TTY number at **(800) 700-2320**  
or visit our web site at [www.dfeh.ca.gov](http://www.dfeh.ca.gov)

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State of California  
Department of Fair Employment & Housing

DFEH-184 (04/04)

## Employment Discrimination Based on Disability

The *Fair Employment and Housing Act* (FEHA), enforced by the California Department of Fair Employment and Housing (DFEH), prohibits employment discrimination and harassment based on a person's disability or perceived disability. It also requires employers to reasonably accommodate individuals with mental or physical disabilities unless the employer can show that to do so would cause an undue hardship.

The law covers mental or physical disabilities (including AIDS/HIV), regardless of whether the conditions are presently disabling. It also covers medical conditions, which are defined as either cancer or genetic characteristics.

Disability does **not** include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance abuse disorders resulting from the current illegal use of drugs.

### FEHA vs. the Federal Americans with Disabilities Act

The FEHA provides broader protections for persons with disabilities than federal law. California employers with five or more employees must follow the FEHA. For example, California law has broad definitions of



The mission of the Department of Fair Employment and Housing is to protect the people of California from unlawful discrimination in employment, housing and public accommodations, and from the perpetration of acts of hate violence.

mental disability, physical disability, and medical condition.

Under California law, a disability must only “limit” a major life activity. The disability does not have to involve a “substantial limitation” as under federal law, to be considered a disability. Whether a condition or disability “limits” a major life activity is determined regardless of any mitigating measure, such as medication, prosthesis, etc., unless the mitigating measure itself limits a major life activity.

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### **Employment Inquiries**

The FEHA prohibits employers either verbally or in writing from:

- Requiring any medical/psychological examination/inquiry of any applicant or employee prior to making an offer of employment
- Inquiring directly or indirectly as to whether an applicant or employee has a mental/physical disability or medical condition
- Inquiring about the nature and severity of a mental/physical disability or medical condition

However, an employer may inquire into the ability of an applicant to perform job-related functions and may respond to an applicant’s request for reasonable accommodation.

Once an employment offer has been made to an applicant, but before the start of duties, an employer may require a medical/psychological examination. However, the examination/inquiry must be job related and consistent with business necessity and all entering employees in the same job classification must be subject to the same examination or inquiry.

An employer may also conduct voluntary medical examinations, including medical histories, which are part of an employee health program. This information is retained separate and apart from employment and personnel records.

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### **Reasonable Accommodation**

The employer is required to explore with the employee all possible means of reasonably accommodating a person prior to rejecting the person for a job or making any employment-related decision. The accommodation may arise from a mitigating measure, such as medication taken for the primary disability.

An accommodation is reasonable if it does not impose an undue hardship on the employer’s business. Reasonable accommodation can include, but is not limited to, changing job duties or work hours, providing leave, relocating the work area, and/or providing mechanical or electrical aids. An employer may obtain help from government agencies and outside experts to determine whether accommodation is possible.

Employees with disabilities may be covered by the *California Family Rights Act* or the federal *Family Medical Leave Act*.

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### **Independent Medical Opinion**

An employer must allow an applicant the opportunity to submit an independent medical opinion if there is a dispute as to whether the person can perform the essential functions of a position. Failure to allow the submission of an independent medical opinion may be a separate violation of the law.

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### **Discrimination**

Any employment-related or personnel decision based on either of the following reasons is not discriminatory:

- The person is unable to perform the essential functions of the job and no reasonable accommodation exists that would enable the person to perform the “essential functions” of the job.
- The person would create an imminent and substantial danger to self or others by performing the job and no reasonable accommodation exists that would remove or reduce the danger.

The following two reasons commonly raised by employers **are not** legally acceptable excuses for discriminating against persons with disabilities:

- Possibility of future harm to the person or to others
- Employing such individuals will cause an employer’s insurance rates to rise



**The definition of sexual harassment includes many forms of offensive behavior.**



**Department of Fair Employment and Housing**

- such as a lead, supervisor, manager or agent;
- the employer had no knowledge of the harassment;
- there was a program to prevent harassment; and
- once aware of any harassment, the employer took immediate and appropriate corrective action to stop the harassment.

### **Filing a Complaint**

Employees or job applicants who believe that they have been sexually harassed may file a complaint of discrimination with DFEH within **one year** of the harassment.

DFEH serves as a neutral fact-finder and attempts to help the parties voluntarily resolve disputes.

If DFEH finds sufficient evidence to establish that discrimination occurred and settlement efforts fail, the Department may file a formal accusation. The accusation will lead to either a public hearing before the Fair Employment and Housing Commission or a lawsuit filed by DFEH on behalf of the complaining party.

If the Commission finds that discrimination has occurred, it can order remedies including:

- Fines or damages for emotional distress from each employer or person found to have violated the law
- Hiring or reinstatement
- Back pay or promotion
- Changes in the policies or practices of the involved employer

Employees can also pursue the matter through a private lawsuit in civil court after a complaint has been filed with DFEH and a Right-to-Sue Notice has been issued.

For more information, see publication DFEH-159 “Guide for Complainants and Respondents.”

For more information, contact DFEH toll free at  
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**State of California**  
Department of Fair Employment & Housing

DFEH-185 (11/07)

## **Sexual Harassment**

### **The Facts About Sexual Harassment**

The *Fair Employment and Housing Act* (FEHA) defines sexual harassment as harassment based on sex or of a sexual nature; gender harassment; and harassment based on pregnancy, childbirth, or related medical conditions. The definition of sexual harassment includes many forms of offensive behavior, including harassment of a person of the same gender as the harasser. The following is a partial list of types of sexual harassment:

- Unwanted sexual advances
- Offering employment benefits in exchange for sexual favors
- Actual or threatened retaliation
- Leering; making sexual gestures; or displaying sexually suggestive objects, pictures, cartoons, or posters
- Making or using derogatory comments, epithets, slurs, or jokes
- Sexual comments including graphic comments about an individual's body; sexually degrading words used to describe an individual; or suggestive or obscene letters, notes, or invitations
- Physical touching or assault, as well as impeding or blocking movements





**The mission of the Department of Fair Employment and Housing is to protect the people of California from unlawful discrimination in employment, housing and public accommodations, and from the perpetration of acts of hate violence.**

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### **Employers' Obligations**

All employers must take the following actions against harassment:

- Take all reasonable steps to prevent discrimination and harassment from occurring. If harassment does occur, take effective action to stop any further harassment and to correct any effects of the harassment.
- Develop and implement a sexual harassment prevention policy with a procedure for employees to make complaints and for the employer to investigate complaints. Policies should include provisions to:
  - Fully inform the complainant of his/her rights and any obligations to secure those rights.
  - Fully and effectively investigate. The investigation must be thorough, objective, and complete. Anyone with information regarding the matter should be interviewed. A determination must be made and the results communicated to the complainant, to the alleged harasser and, as appropriate, to all others directly concerned.
- Take prompt and effective corrective action if the harassment allegations are proven. The employer must take appropriate action to stop the harassment and ensure it will not continue. The employer must also communicate to the com-

plainant that action has been taken to stop the harassment from recurring. Finally, appropriate steps must be taken to remedy the complainant's damages, if any.

- Post the Department of Fair Employment and Housing (DFEH) employment poster (DFEH - 162) in the workplace (available through the DFEH publications line [916] 478-7201 or Web site).
- Distribute an information sheet on sexual harassment to all employees. An employer may either distribute this pamphlet (DFEH 185) or develop an equivalent document that meets the requirements of Government Code section 12950(b). This pamphlet may be duplicated in any quantity. **However, this pamphlet is not to be used in place of a sexual harassment prevention policy, which all employers are required to have.**
- All employees should be made aware of the seriousness of violations of the sexual harassment policy and must be cautioned against using peer pressure to discourage harassment victims from complaining.
- Employers who do business in California and employ 50 or more part-time or full-time employees *must* provide at least two hours of sexual harassment training every two years to each supervisory employee and to all new supervisory employees within six months of their assumption of a supervisory position.

- A program to eliminate sexual harassment from the workplace is not only required by law, but is the most practical way for an employer to avoid or limit liability if harassment should occur despite preventive efforts.

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### **Employer Liability**

All employers, regardless of the number of employees, are covered by the harassment section of the FEHA. Employers are generally liable for harassment by their supervisors or agents. Harassers, including both supervisory and non-supervisory personnel, may be held personally liable for harassing an employee or coworker or for aiding and abetting harassment.

Additionally, the law requires employers to take "all reasonable steps to prevent harassment from occurring." If an employer has failed to take such preventive measures, that employer can be held liable for the harassment. A victim may be entitled to damages, even though no employment opportunity has been denied and there is no actual loss of pay or benefits.

In addition, if an employer knows or should have known that a **non-employee** (e.g. client or customer) has sexually harassed an employee, applicant, or person providing services for the employer and fails to take immediate and appropriate corrective action, the employer may be held liable for the actions of the non-employee.

An employer might avoid liability if

- the harasser is not in a position of authority,

## **WHISTLEBLOWERS ARE PROTECTED**

It is the public policy of the State of California to encourage employees to notify an appropriate government or law enforcement agency when they have reason to believe their employer is violating a state or federal statute, or violating or not complying with a state or federal rule or regulation.

### **Who is protected?**

Pursuant to California Labor Code Section 1102.5, employees are the protected class of individuals. "Employee" means any person employed by an employer, private or public, including, but not limited to, individuals employed by the state or any subdivision thereof, any county, city, city and county, including any charter city or county, and any school district, community college district, municipal or public corporation, political subdivision, or the University of California. [California Labor Code Section 1106]

### **What is a whistleblower?**

A "whistleblower" is an employee who discloses information to a government or law enforcement agency where the employee has reasonable cause to believe that the information discloses:

- 1 A violation of a state or federal statute,
- 2 A violation or noncompliance with a state or federal rule or regulation, or
- 3 With reference to employee safety or health, unsafe working conditions or work practices in the employee's employment or place of employment.

### **What protections are afforded to whistleblowers?**

- 1 An employer may not make, adopt, or enforce any rule, regulation, or policy preventing an employee from being a whistleblower.
- 2 An employer may not retaliate against an employee who is a whistleblower.
- 3 An employer may not retaliate against an employee for refusing to participate in an activity that would result in a violation of a state or federal statute, or a violation or noncompliance with a state or federal rule or regulation.
- 4 An employer may not retaliate against an employee for having exercised his or her rights as a whistleblower in any former employment.

Under [California Labor Code Section 98.6](#), if an employer retaliates against a whistleblower, the employer may be required to reinstate the employee's employment and work benefits, pay lost wages, and take other steps necessary to comply with the law.

### **How to report improper acts**

If you have information regarding possible violations of state or federal statutes, rules, or regulations, or violations of fiduciary responsibility by a corporation or limited liability company to its shareholders, investors, or employees, **call the California State Attorney General's Whistleblower Hotline at 1-800-952-5225**. The Attorney General will refer your call to the appropriate government authority for review and possible investigation.

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**The Executive Director of Human Resources has primary delegated responsibility as the compliance officer for the District. Employees who wish to disclose improper governmental activities at a District-level should contact the Executive Director of Human Resources at (909) 652-6532.**

**All complaints of interference, reprisal, retaliation, threats, coercion or intimidation should be immediately reported to the Executive Director of Human Resources at (909) 652-6532.**

# EMPLOYEE RIGHTS AND RESPONSIBILITIES UNDER THE FAMILY AND MEDICAL LEAVE ACT

## Basic Leave Entitlement

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for the following reasons:

- for incapacity due to pregnancy, prenatal medical care or child birth;
- to care for the employee's child after birth, or placement for adoption or foster care;
- to care for the employee's spouse, son, daughter or parent, who has a serious health condition; or
- for a serious health condition that makes the employee unable to perform the employee's job.

## Military Family Leave Entitlements

Eligible employees whose spouse, son, daughter or parent is on covered active duty or call to covered active duty status may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered servicemember during a single 12-month period. A covered servicemember is: (1) a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness\*; or (2) a veteran who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran, and who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness.\*

**\*The FMLA definitions of "serious injury or illness" for current servicemembers and veterans are distinct from the FMLA definition of "serious health condition".**

## Benefits and Protections

During FMLA leave, the employer must maintain the employee's health coverage under any "group health plan" on the same terms as if the employee had continued to work. Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

Use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

## Eligibility Requirements

Employees are eligible if they have worked for a covered employer for at least 12 months, have 1,250 hours of service in the previous 12 months\*, and if at least 50 employees are employed by the employer within 75 miles.

**\*Special hours of service eligibility requirements apply to airline flight crew employees.**

## Definition of Serious Health Condition

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a health care provider or one visit and

a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

## Use of Leave

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

## Substitution of Paid Leave for Unpaid Leave

Employees may choose or employers may require use of accrued paid leave while taking FMLA leave. In order to use paid leave for FMLA leave, employees must comply with the employer's normal paid leave policies.

## Employee Responsibilities

Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days notice is not possible, the employee must provide notice as soon as practicable and generally must comply with an employer's normal call-in procedures.

Employees must provide sufficient information for the employer to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the employer if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

## Employer Responsibilities

Covered employers must inform employees requesting leave whether they are eligible under FMLA. If they are, the notice must specify any additional information required as well as the employees' rights and responsibilities. If they are not eligible, the employer must provide a reason for the ineligibility.

Covered employers must inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. If the employer determines that the leave is not FMLA-protected, the employer must notify the employee.

## Unlawful Acts by Employers

FMLA makes it unlawful for any employer to:

- interfere with, restrain, or deny the exercise of any right provided under FMLA; and
- discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

## Enforcement

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer.

FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

**FMLA section 109 (29 U.S.C. § 2619) requires FMLA covered employers to post the text of this notice. Regulation 29 C.F.R. § 825.300(a) may require additional disclosures.**



For additional information:  
1-866-4US-WAGE (1-866-487-9243) TTY: 1-877-889-5627  
[WWW.WAGEHOUR.DOL.GOV](http://WWW.WAGEHOUR.DOL.GOV)

U.S. Department of Labor | Wage and Hour Division



WHD Publication 1420 · Revised February 2013

***Frequently Asked Questions about  
Students with Disabilities***

## WHAT IS DPS?

The **Disability Programs & Services (DPS)** is a program designed to assist students with disabilities succeed in college. It is also here to assist the instructors with students with disabilities in their class, better serve those students.

### ***AM I REQUIRED TO MAKE ACCOMMODATIONS FOR STUDENTS WITH DISABILITIES IN MY CLASSES?***

Yes. There are three key laws that require colleges to make special accommodations for students with disabilities:

#### 1. SECTION 504 OF THE REHABILITATION ACT OF 1973

No student can be excluded from any course, major, or program solely on the basis of a disability.

Certain academic accommodations are mandated, especially in regard to the provision of alternate testing and evaluation methods for measuring student mastery, except where such alteration would result in a modification of course objectives (as stated in the Course Outline of Record). "In its course examinations or other procedures for evaluation student's academic achievements in its programs, a university shall provide such methods for evaluation the achievement of students who have disabilities as will best ensure that the results of the evaluation represent the student's achievement in the course, rather than reflecting the student's impaired sensory, manual or speaking skills (except where such skills are the factors that the test purports to measure)."

Modification, substitution, or waiver of a course, major, or degree requirement may be necessary to meet the needs of a student with learning disabilities.

Changes in time limits to complete a degree may be required.

It is discriminatory to restrict the range of career options in counseling students with disabilities as compared to non-disabled students unless such counsel is based on licensing or certification requirements for the profession.

#### 2. THE AMERICANS WITH DISABILITIES ACT OF 1990 (ADA)

There may be no exclusion of a person based on his/her disability.

Eligibility criteria that screen out individuals with disabilities must be based on actual safety factors, not stereotypes or assumptions.

It is discriminatory to fail to make "reasonable" modifications in policies, practices, and procedures. It is illegal for an entity to refuse to serve persons with disabilities or serve them differently because of insurance conditions.

#### 3. SECTION 508 OF THE REHABILITATION ACT OF 1973

All films, videos, college web sites, and all other electronic media must be fully accessible to persons with disabilities.

All brochures, catalogs, schedules, text, handouts, etc. must be available to students in alternate formats such as Braille and e-text.

***SUPPOSE I DON'T AGREE TO PROVIDE ACCOMMODATION IN THE EXACT WAY THE STUDENT IS REQUESTING IT?***

There are usually several ways that a student's special needs are met. All federal law requires is "reasonable" accommodation. If your way meets that criterion in light of the student's handicapping condition, you have complied with the law. However, if the objection stems from the student's use of an assistive device necessary to compensate for his/her disability (tape recorder, etc.), federal law may require that it be allowed. You may, however, require the student to complete an agreement which covers problems you envision with the device (such as not releasing the tape recording or transcription, allowing you to erase tapes, etc.).

***BY MAKING CERTAIN ACCOMMODATIONS TO STUDENTS WITH DISABILITIES, AM I NOT DISCRIMINATING AGAINST THE OTHER STUDENTS WHO WOULD PROBABLY PREFER SUCH THINGS AS EXTENDED TIME FOR TESTS?***

It may appear that preferential treatment is being given to a student with disabilities; however, the objective of the legal requirement is to help the student compensate for a life function which is not the same as that of other students in the class. Through the accommodation we attempt to provide the student with the same opportunity that other class members have without special measures. The law allows, and in fact requires, that special needs be met.

***I HAVE STUDENTS WITH DISABILITIES IN MY CLASS. WHERE CAN I GO FOR HELP?***

The **Disability Programs & Services (DPS)** department at Chaffey will try to help you. We are located in **CCW-21** (on the west side of the cafeteria, across from Financial Aid), **ex. 2380**.

***WHAT ASSISTANCE CAN DPS PROVIDE?***

The DPS office can provide **test accommodations, enlarged print, recording, or braille** for your handouts. We will also help with any needed **classroom modifications** (lowering lab tables, etc.) and provide **tram transportation** for students between classes.

The DPS program also has **equipment** that can assist vision impaired or dyslexic students with reading materials. We have both print enlargers and software that "read" text aloud. Adapted equipment/ software has been set up in the Library, Student Success Centers, and other places throughout campus. The off campus sites also have adapted equipment/ software.

If you feel a student has some disability that has not been diagnosed, please refer the student to the DPS program. Instructors are a significant source of referrals, especially in the learning

disabilities area. The student cannot be required to register with DPS, but many will.

***MUST I ACCEPT DPS STUDENTS IN MY CLASS WHOSE DISABILITY CLEARLY PLACES THEM OR THE REST OF THE CLASS IN DANGER?***

**No**, but please talk to us about this exclusion before you actually exclude the student. Any exclusion must be handled very carefully to insure its legality and in the best interest of the student and the college.

***WHAT SPECIAL ACCOMMODATIONS DO I NEED TO MAKE IN A LABORATORY CLASSES?***

Discuss any safety concern you have with DPS. We can ensure that labels are included in Braille or large print. We can also try to add visual or auditory warning systems if necessary. We can help you rearrange the lab to **provide more accessibility**. Work with the student and DPS to identify, modify, and provide appropriate lab equipment, such as adjustable tables, talking thermometers and calculators, large print, speech output, and tactile timers.

***WHAT SPECIAL ACCOMMODATIONS DO I HAVE TO MAKE FOR COURSE REQUIRED FIELDWORK OR FIELD TRIPS?***

**Ask the student or DPS for suggestions** on how the student might be able to do some fieldwork or field trips. Attempt to include the student rather than automatically suggesting non-field work or field trip alternatives.

If the college provides transportation to the class, the college must also provide **accessible transportation** for students who use wheelchairs (e.g. a bus or van with a wheelchair lift).

***MUST I LOWER MY STANDARDS BECAUSE I HAVE STUDENTS WITH DISABILITIES IN MY CLASSES?***

No. We may (for example) ask you to modify the way you test the student, but we cannot ask you to lower your standards. The accommodation is not intended to alter the academic rigor of your course, assignments, or examinations. It is intended to allow the student to access the course materials and to accurately demonstrate what he or she has learned.

***I SEEM TO HAVE STUDENTS WITH LESS THAN AVERAGE IQ'S IN MY CLASS. WHAT AM I OBLIGED TO DO FOR THESE STUDENTS?***

These students may be developmentally delayed learners (DDL). Developmentally delayed learners are students who have an ability level that is significantly below average. Individuals with developmental delays learn more slowly and have more difficulty with abstract concepts than those with average or above average intelligence. We do have an entire program for these students, but they do not have to attend. You should treat them the same way you would treat other students with disabilities. If they are currently DPS students, we should notify you that they will need accommodations, and we will try to work with you. If they are not yet DPS students, you might refer them to the program, and we will work to give them more realistic expectations.

***MUST I ELIMINATE THE TIMED TESTS I GIVE THE STUDENTS?***

**Possibly**. If the time limits are a part of the nature of the class and if this fact is clearly outlined in

the Course Outline of Record in the Curriculum Office, then you can continue with time limits. However, we may ask you to consider whether they are really necessary, and we may ask for extended time limits for a student with a disability that slows him/her down.

***SOME STUDENTS WHO DON'T APPEAR TO HAVE A DISABILITY ARE DEMANDING ACCOMMODATIONS. HOW DO I KNOW THEY REALLY NEED THEM?***

Remember that many disabilities are invisible. If a student needs some sort of accommodation, DPS will notify you. If you do not receive such a notification, please contact us, and we will try to help you determine if the student really needs accommodations.

Because of privacy issues, we may not be able to reveal the exact nature of the student's disability, but we can confirm if the student really needs the accommodations requested.

***I FEEL I NEED TO KNOW EXACTLY WHAT THE STUDENT'S DISABILITY IS SO I CAN DECIDE WHAT ACCOMMODATIONS ARE NEEDED. WILL DPS TELL ME?***

By law, much of the information the student gives us is confidential. Occasionally a student actually wants us to tell you, and we will, if the student has signed a release form allowing us to do so.

***I HAVE TWO STUDENTS WHO SEEM TO HAVE THE SAME DISABILITY. ONE IS DEMANDING ACCOMMODATIONS BUT THE OTHER IS NOT. WHAT IS GOING ON HERE?***

Remember that there are degrees of disability. One student may have little difficulty with an assignment that another student with the same disability may find overwhelming. Also, some students simply deal better with their disability than others do. This will vary a lot with the general psychological state of the student and the recency of the disability. Additionally, one student may have some additional, invisible, disability that the other student does not share.

***I HAVE A STUDENT WHO CLEARLY HAS A DISABILITY BUT WHO HAS NOT ASKED FOR ANY ACCOMMODATIONS. WHAT SHOULD I DO IN THIS SITUATION?***

In post-secondary settings it is the student's responsibility to request special accommodations, but faculty members can make a student comfortable by inquiring about special needs. One easy way this can be done is to include in the syllabus a statement inviting students to discuss their special needs with you (this also makes it a general statement, not neglecting students with invisible disabilities or singling out the one student who appears to have a disability).

*For example: "If you have a disability documented by a physician or other appropriate professional and wish to discuss academic accommodations, please contact the DPS office (941-2379) ASAP. Please be sure to allow adequate time to arrange an appropriate accommodation."*

It might also be helpful if you add a statement about the accessibility of texts, electronic media, etc.

*For example: "DPS makes available to qualified students alternate formats of texts, handouts, and videos. These alternate formats are: Braille, Electronic Text (E-Mail), and Closed Captioning. DPS*



also has a Adaptive Technology Computer lab with a large variety of assistive technologies and some are available for checkout. Please contact the DPS (941-2379) for more information.”

### **WHAT ARE SOME “REASONABLE ACCOMMODATIONS” I CAN MAKE FOR STUDENTS WITH SPECIFIC DISABILITIES?**

What the individual student will actually need will vary with the nature of the class, the degree of disability, and the personality of the student. Here are examples of a few of the disabilities encountered at Chaffey and suggestions for accommodations:

#### LEARNING DISABILITIES

A learning disability is a hidden disability. It is critical to remember that a student with a learning disability has average to above average intelligence. Also, this disability is not the result of some character defect (laziness, etc.) or lack of educational opportunities.

##### **Dyslexia** (Reading Difficulty)

When typing a multiple-guess test, capitalize the A, B, C, and D, etc. choices.

Don't grade on spelling unless that is the point of the class.

Allow taping of lectures.

Allow extended time on tests.

Allow DPS personnel to read tests to students.

##### **Dysgraphia** (Writing Difficulty)

Allow taping of lectures.

Allow students to record essays. At least allow them to think on the recorder and then transfer what they have recorded to paper.

Allow DPS to provide note-takers or help the student recruit note-takers from among the other students in class.

Allow students to use computers for in-class essays.

Allow DPS personnel to actually write out the essay answers the student dictates.

##### **Dyscalculia** (Math Difficulty)

Allow calculator use in all math classes or classes such as economics that may have a major math component.

Allow extended time on any tests containing math (in classes such as economics, etc.)

##### **Organizational Weaknesses**

Allow taping of lectures

Allow extra time on tests

Provide detailed syllabus

Provide outlines and studying suggestions appropriate for the subject matter and your approach

##### **Sensory Overload**

Reduce unnecessary distractions- visual, auditory, etc. When selecting texts try to pick one that is less visually cluttered.

Allow extended time on tests.

Allow the student to take the tests in distraction-reduced settings such as the DPS Center.

## PHYSICAL DISABILITIES

### **Acquired Brain Injury**

Allow taping of lectures.

Allow extended time on tests.

Allow the student to take the tests in distraction-reduced settings such as the DPS Center.

### **Epilepsy**

Allow taping of lectures.

Allow extended time on tests.

Do not place the student in a situation where there are strobe lights or any other type of flashing lights. Many epileptics have seizures that are triggered by flashing lights (in this situation a reasonable accommodation would be to excuse the student from this activity).

### **Blind & Visually Impaired**

Allow taping of lectures.

Tests can be Brailled, taped or dictated by DPS staff (please remember that not all visually impaired students know Braille).

Explain in as much detail as possible remember s/he may not be able to see what is on the board. "Talk through" what you are writing on the board.

Allow those with limited vision to sit at the front of the classroom.

Allow DPS to provide note-takers or help the student recruit note-takers from among the other students in class.

Get handouts, tests, etc. to the DPS office ASAP and they will arrange for enlarging the type, recording, brailing, or whatever the particular student needs.

Don't rearrange the room. Once a blind student has the paths in mind it is very disconcerting to have everything move.

### **Deaf & Hearing Impaired**

Do not face the board while lecturing.

Allow student to sit in the front row.

If a sign language interpreter is being used, be sure to put the interpreter at the front. Try to pace your lecture with the interpreter. Also, try to provide the interpreter and the student with a list of key technical terms in advance to help them both keep up.

Put as much as possible on the board or in handouts (a student who is lip reading tends to get only part of the information).

When dealing with a deaf student, remember that English may be their second language (American Sign Language being the first), and these students often have ESL-like problems in writing.

Speak naturally - do not exaggerate the lip movements.

Avoid speaking with windows behind you - this adds glare problems and may throw shadows on your face.

### **Speech Impaired**

Be patient. If you cannot understand what the student is saying, ask them to please repeat it.

Most students understand your problem and they will try to help.

### **Wheelchair Users**

If speaking for an extended time with a person in a wheelchair, sit in a chair. This will make it much easier for that person to see you.

Please be understanding if the student is sometimes late. It is very difficult to negotiate the Chaffey campus in a wheelchair. If the student is being transported by the DPS program it may be our fault that s/he is late.

Remember that labs may need modification for the use by students in wheelchairs -- call the DPS program for assistance.

Field trips can be a special problem. The college must provide transportation if it is being provided for all students.

### **Environmental Allergies**

Request all students to avoid all perfumes/ colognes, etc. (remember to do so yourself).

### **Cerebral Palsy**

Allow the student to type tests and papers even multiple choice tests if s/he can.

Allow taping of lectures.

Please understand if the student is occasionally late. Even if the student is not in a wheelchair his/her progress across campus may be rather slow.

### **Other physical disabilities**

Students with many different types of disabilities may need to tape lectures, take tests with extended time limits, and/or require more than ten minutes to get between classes. Examples of these disabilities might include heart conditions, digestive disorders, cancer, lupus, renal disease, asthma, sickle cell anemia, hemophilia, leukemia, diabetes, and AIDS.

## PSYCHOLOGICAL DISABILITIES

### **ADD and ADDHD**

Allow taping of lectures.

Reduce outside distractions as much as possible.

Remember the student will "check out" frequently it's not that s/he is not trying.

### **Other psychological disabilities**

Avoid overly dramatic or very loud presentations. These can be seen as threatening.

Surprises can be very intimidating for these students.

**PROCEDURE NAME: District Network and Computer Use**

**Introduction:** *Chaffey College has a strong commitment to providing a quality education for its students, including access to and experience with current technology. The District's goals for technology in education include providing access to all students, faculty and staff, fully integrating technology into the daily curriculum and preparing students and educators to meet the challenge of a highly technological and information-rich classroom and workplace.*

**Authorization:** This procedure is authorized by Board Policy 3.10 Computer Use. Employees and students who use district computers and networks and the information they contain, and related sources, shall not abuse those resources and will respect the rights of others. The procedures shall include that users must respect software copyrights and licenses, respect the integrity of computer-based information resources, refrain from seeking to gain unauthorized access, and respect the rights of other computer users. This is an Information Technology Services department procedure that can be modified through the Technology Committee.

**Definitions:** Definitions and concepts used within this procedure are applied using a "reasonable person standard" within the context of professional practice.

**Purpose:** To inform all District students, faculty, staff and others of the proper use of District information resources whether these resources are individually controlled, shared, stand-alone or networked. This procedure encompasses the use of personal computers, desktops, laptops, workstations, associated peripherals, software and information resources, regardless of whether used for administration, research, teaching or other purposes.

1. This procedure applies to:
  - all District students, faculty, staff and others granted the use of District information resources and
  - all computer and computer communications facilities owned, leased, operated, or contracted by the District.
  
2. The District computer and network systems are owned by Chaffey Community College District. All individuals must have proper authorization in order to use these resources. The computer and network resources are for District instructional, educational and work-related purposes only. Users also are reminded that the ".cc" and ".edu" domains on the Internet have rules restricting or prohibiting commercial use, and users may not conduct inappropriate activities within those domains.
  
3. Conditions of Use
  - 3.1 When using the District network and computers, all users are expected to follow the rules contained in this procedure and to use the network and computers in an ethical and lawful manner. Individual departments within the District may define additional conditions of use for information resources under their control. These statements must be consistent with this overall procedure but may provide additional detail, guidelines and/or restrictions.
  
4. Legal Process
  - 4.1 A user of District information resources who is found to have violated any of these policies or procedures will be subject to established disciplinary action.

## 5. Copyrights and Licenses

Computer users must respect copyrights and licenses to software and other online information.

- 5.1 Copying – Software protected by copyright may not be copied except as expressly permitted by the owner of the copyright or otherwise permitted by copyright law. Protected software may not be copied to, from, or by any District facility or system, except pursuant to a valid license or as otherwise permitted by copyright law. Computers used by students are locked down; therefore downloading and installing software applications onto district computers is not acceptable except when supervised by faculty as part of the curriculum. Downloading software applications for staff is not acceptable unless prior approval has been obtained from the supervisor or system administrator. Faculty may download files and/or software applications on their assigned workstations as deemed necessary. Automatic software updates for currently owned software is acceptable. All software applications downloaded must conform to copyright and license restrictions.
- 5.2 Number of Simultaneous Users – The number and distribution of copies must be handled in such a way that the number of simultaneous users in a department and/or District does not exceed the number of original copies purchased by that department and/or District, unless otherwise stipulated in the purchase contract or licensing agreement.
- 5.3 Copyrights – In addition to software, all other copyrighted information (text, images, icons, programs, etc.) retrieved from the computer or network resources must be used in conformity with applicable copyright and other law. Copied material must be properly attributed. Plagiarism of computer information is prohibited in the same way that plagiarism of any other protected work is prohibited.

## 6. Integrity of Information Resources

Computer users are responsible for maintaining the integrity of computer-based information resources.

- 6.1 Modification or Removal of Equipment – Prior authorization from the supervisor or system administrator is required to modify or remove computer equipment, software, or peripherals. It is recognized that portable equipment or equipment for which one has personal responsibility (e.g. a laptop) may be moved. Definitions and concepts are applied using a “reasonable person standard within the context of professional practice.”
- 6.2 Unauthorized Use – Computer users will use the district system in a manner consistent with their work assignment. Users must not interfere with others’ access and use of District computers. This includes, but is not limited to: the sending of chain letters or excessive messages, either locally or off-campus; running grossly inefficient programs when efficient alternatives are known by the user to be available; unauthorized modification of system facilities, operating systems, or disk partitions; attempting to crash or tie up a District computer or network; and damaging or vandalizing District computing facilities, equipment, software or computer files.

- 6.3 Unauthorized Programs – Computer users are expected to access authorized programs only. Users must ensure that they do not use programs or utilities that interfere with other computer users, or that modify normally protected or restricted portions of the system or user accounts. Computer users must not intentionally use programs which disrupt other computer users, or which access private or restricted portions of the system, or which damage the software or hardware components of the system.
- 6.4 Computer users must not seek to gain unauthorized access to information resources and must not assist any other persons to gain unauthorized access.
  - 6.4.1 Abuse of Computing Privileges – Users of District information resources must not access computers, computer software, computer data or information, or networks without proper authorization, or intentionally enable others to do so, regardless of whether the computer, software, data, information, or network in question is owned by the District. For example, abuse of the networks to which the District belongs, or the computers at other sites connected to those networks, will be treated as an abuse of District computing privileges.
  - 6.4.2 Reporting Problems – Any defects discovered in system accounting or system security should be reported promptly to the appropriate system administrator and/or supervisor so that steps can be taken to investigate and solve the problem.
  - 6.4.3 Password Protection – A computer user who has been authorized to use a password-protected account will be subject to both civil and criminal liability if the user discloses the password or otherwise makes the account available to others without permission of the supervisor or system administrator. Generic user accounts and passwords by definition are shared with appropriate and authorized users.

## 7. Usage

Computer users must respect the rights of other computer users. Attempts to circumvent these mechanisms in order to gain unauthorized access to the system or to another person's information are a violation of District procedure and may violate applicable law.

- 7.1 Unlawful Messages – Users may not use electronic communication facilities to send defamatory, fraudulent, harassing, obscene, threatening, or other messages that violate applicable federal, state or other law or District policy, or which constitute the unauthorized release of confidential information.
- 7.2 Obscene Material – Creating, transmitting, viewing, uploading, or downloading of obscene materials is strictly prohibited. Use of computers to research material associated with instructional assignments is permitted.
- 7.3 Information Belonging to Others – Users must not intentionally seek or provide information on, obtain copies of, or modify data files, programs, or passwords belonging to other users, without the permission of those other users.

- 7.4 Rights of Individuals – Users must not release any individual's (student, faculty, and staff) personal information to anyone without proper authorization.
- 7.5 User Identification – Users shall not send communications or messages anonymously or without accurately identifying the originating account or station.
- 7.6 Political Use – The District is a non-profit, tax-exempt organization and, as such, is subject to specific federal, state and local laws regarding sources of income, political activities, use of property and similar matters. District information resources must not be used for partisan political activities where prohibited by federal, state or other applicable laws.
- 7.7 Personal Use – Occasional personal use of the computer and associated resources is authorized as long as it does not distract from work-related activities. Participation in online or electronic CHAT is only allowed for Chaffey business-related purposes.
- 7.8 Personal Computers  
Only district approved and certified equipment shall be connected to the District network. Personal computers or other network devices are not to be connected to the District network. District loaner laptops are available for checkout from departments when the facility/location used does not have access to a permanent computer.

## 8. Nondiscrimination

- 8.1 All users have the right to be free from conduct which harasses or discriminates against any person on the basis of race, color, creed, national origin, ancestry, gender, marital status, disability, religious or political affiliation, age (over 40), sexual orientation, medical condition or military status as a Vietnam era veteran as required by all federal and state laws that is connected with the use of the District's network and computer resources.
- 8.2 No user shall use the District network and computer resources to transmit any message, create any communication of any kind, or store information which violates any District procedure regarding discrimination or harassment, or which is defamatory or obscene, or which constitutes the unauthorized release of confidential information.

## 9. Disclosure

- 9.1 Privacy – The District reserves the right to monitor all use of the District network and computer system if abuse is suspected, to assure compliance with these policies and procedures, to maintain system integrity, to ensure system security and to promote best business practices. The District will exercise this right only for legitimate District purposes. This provision does not replace or supersede established disciplinary processes as outlined in all known negotiated contracts. Those with administrator access will not view employees' mail without authorization from the Superintendent or his/her designee.
- 9.2 Possibility of Disclosure – Users must be aware of the possibility of unintended disclosure of communication.

- 9.3 Retrieval – It is possible for information entered on or transmitted via computer and communications systems to be retrieved, even if a user has deleted such information.
- 9.4 Public Records – The California Public Records Act (Government Code Sections 6250 et seq.) includes computer transmissions in the definition of “public record” and nonexempt communications made on the District network and computer system must be disclosed if requested by a member of the public.
- 9.5 Chaffey College reserves the right to employ software for use in filtering unwanted, unsolicited, harmful, or otherwise inappropriate material following established District process.

#### 10. Dissemination and User Acknowledgment

- 10.1 All users shall be provided copies of these procedures and be directed to familiarize themselves with them.
- 10.2 Prior to receiving an account on the District network and computer system, users must sign a statement acknowledging that they have read and will comply with the District’s Computer Use policy and associated procedures. In addition, they must acknowledge receipt of the Accountability Statement and will comply with the following requirements:
  - a. Passwords and/or codes will not be shared with other employees or students.
  - b. Confidential data will be disposed of in an approved manner.
  - c. Creation or transmission of any false statement which tends to cause injury to one’s reputation is strictly prohibited.
  - d. Creating, transmitting, uploading or downloading obscene materials is strictly prohibited.
  - e. Use of the District computers/networks is for college-related activities only.
- 10.3 An initial screen addressing a synopsis of these procedures shall be installed on computers with access to the administrative information system. This screen shall appear prior to accessing the administrative information system. Users must positively acknowledge the statement that they have read and understand this procedure and that they will comply with it. A user acknowledgment shall be in the form as follows:

“The information you are requesting to access is protected by State and Federal law and is regarded as confidential by the District.

You must agree to:

- Access only the information needed to complete your assigned authorized task(s),



- Collect and retain only such information as is needed to effectively conduct District business,
- Handle such information in a secure, confidential and appropriate manner in compliance with relevant laws, regulations, policies and procedures, and
- Protect the privacy of employee and/or student records, and prevent inappropriate or unnecessary disclosure of such records.

You must acknowledge the following:

I understand that by proceeding into the Chaffey College District software system, I agree to comply with the above and understand that if I fail to abide by these conditions, my access to all District information systems may be terminated and that I may be subject to formal disciplinary action.”

Type ‘Y’ to accept or ‘N’ to logoff.

## 11.0 Chaffey E-Mail Usages

### 11.1 Ownership

Chaffey College owns the e-mail system and is ultimately responsible for its use and content.

### 11.2 Personal Use

- Occasional personal e-mail is authorized as long as it does not distract from work-related activities.
- E-mail is a business tool entirely owned by the district, which reserves the right to monitor mail should policy abuse be suspected.
- Mail containing lewd or inappropriate content is unacceptable.
- Chain letters are prohibited.

### 11.3 Privacy

- Those with administrator access to mail will not view employees’ mail without authorization from the Superintendent or his/her designee.
- Those with administrator access may also view employees’ mail at the request of the user/owner of the email.
- In accordance with 9.1, the district retains the right to monitor mail.
- Users must take steps to ensure that their password is unique and that it stays private.
- Users are forbidden to give their password to others without permission of the supervisor or system administrator.

### 11.4 E-Mail Features and User Responsibilities

- District e-mail offers a variety of features including return receipt, blind carbon copy and urgent delivery. Use of all features is authorized but employees should be judicious in the use of these features since they increase mail traffic and may take priority in mail queues.
- Use of graphics and sounds should be avoided as even small items can greatly increase the message size.
- Transmissions of graphics, audio or other sizable files should be kept to a minimum.

- Attachments from graphic-intensive programs such as PowerPoint should be zipped before sending.
- Prudence must be exercised in using global distribution lists. Mass mailings increase traffic in the system and are often not appreciated by the recipient.
- Large attachments should be used sparingly on global distribution lists. The size limit for an email sent to a distribution list is 300 Kb.
- Topics must be business related.
- Content must be timely and contain current information.