



SAN DIEGO COMMUNITY COLLEGE DISTRICT

Office of the Chancellor

CITY COLLEGE – MESA COLLEGE – MIRAMAR COLLEGE – CONTINUING EDUCATION

DISTRICT GOVERNANCE COUNCIL

July 20, 2016

3:00 p.m. – Room 245

AGENDA

- *1.0 Review Minutes of June 1, 2016
- *2.0 Review of Board Agenda for July 21, 2016
- 3.0 Additional Agenda Items
- 4.0 State Budget Update Dowd
- 5.0 Textbook Survey Report Neault
- 6.0 SDCCD Basic Skills Initiative Task Force Recommendations Bulger
- *7.0 Review of Revisions to Board Policies and Administrative Procedures Surbrook
 - BP 3430 – Prohibition of Harassment
 - AP 3430 – Prohibition of Harassment
 - AP 3435 – Discrimination and Harassment Investigations
- 8.0 Roundtable

*Attachments

BOARD MEETING scheduled: Thursday, July 21, 2016 – 4:00 p.m.
District Office – Rooms 235/245

Next DGC MEETING scheduled: Wednesday, August 17, 2016 – 3:00 p.m.
District Office – Room 245

Visitors and observers are welcome. The District Governance Council (DGC) follows an open process and conducts open meetings. However, because of limited space, we ask that visitors sit in the extra chairs provided against the walls to leave room available at the table for voting DGC members. Your help is appreciated.



SAN DIEGO COMMUNITY COLLEGE DISTRICT

CITY COLLEGE – MESA COLLEGE – MIRAMAR COLLEGE – CONTINUING EDUCATION

DISTRICT GOVERNANCE COUNCIL MINUTES

June 1, 2016

Present: Bell (for Hsieh), Beresford, Bocaya, Bulger, Cortez, Dowd, Fremland, Harris, Kovrig, Lareau (for Manis), Larson, Mahler, McGrath (for Luster), McMahon, Schmeltz, Surbrook, Watkins, Weinroth, Whisenhunt, and Chairperson Chancellor Carroll

Absent: Hsieh, Hubbard, Luster, Manis, Neault

1. **APPROVAL OF MINUTES**

The minutes of May 18, 2016, were approved.

2. **REVIEW OF BOARD AGENDA**

The agenda for the June 9, 2016, Board Meeting was opened for review by Chancellor Carroll. Each item was discussed and satisfied.

3. **STATE BUDGET UPDATE**

Executive Vice Chancellor Dowd went through a draft version of the 2016-2017 Tentative Budget which will be presented for adoption at the June 9, 2016, Board of Trustees meeting.

4. **REGIONAL ACCREDITATION UPDATE**

Chancellor Carroll shared information from the State Chancellor's Office regarding a resolution adopted by the California Community Colleges (CCC) Board of Governors regarding the current CCC accreditor. A dual approach is being pursued, in order to improve operations and governance of the current accreditor while also planning for transition to a new accreditor that would align all segments of higher education in the Western region. Two workgroups have been formed with representatives from throughout the region: one group to address the current accreditor and the other to pursue a new accreditor.

5. **UPCOMING PERS/STRS INCREASES**

The DGC discussed the continuing increases in employer contribution rates to the CalSTRS and CalPERS employee retirement systems, noting that the cumulative additional cost would exceed \$14 million by the last year of the scheduled increases. Jim Mahler emphasized the need for the District to prepare incrementally for this increase, so as not to have a catastrophic level of cost all at once at the end of the scheduled increases. To this end, Mr. Mahler distributed a plan for making incremental increases designed to provide ongoing funds to reach the total level of the increase over time. Chancellor Carroll indicated that, while not negotiating publicly, it was a wise strategy to develop a clear and sustainable plan to fund this increase on an incremental basis, since the sizable cost could have a destabilizing impact on the District's fiscal situation in the future.

Adjourned 4:10 p.m.

Chancellor's Office & Board of Trustees



**Thursday, July 21, 2016
Regular Board Meeting**

**San Diego Community College District
Public Meeting of the Board of Trustees**

**Charles W. Patrick Building
District Office
3375 Camino del Rio South Rooms 235-255, 300
San Diego CA 92108**

This agenda includes:

**2:15 p.m. Call to Order – Room 235-255, followed by Closed Session – Room 300
4:00 p.m. Regular Business Meeting – Room 235-255**

DISCLAIMER: If changes are necessary, the San Diego Community College District reserves the right to effect them up until 72 hours in advance of the posted Board meeting.

SUGGESTED ORDER OF BUSINESS

1. Call to Order

- 1.01 Call Meeting to Order, Room 235-255
- 1.02 Announcement of and Public Comment on Closed Session Items
- 1.03 Adjourn to Closed Session, Room 300

2. Closed Session

- 2.01 Conference with labor negotiator Will Surbrook, Vice Chancellor of Human Resources (pursuant to Government Code Section 54957.6).
Bargaining/Meet and Confer Units under Consideration:
 - a. AFT Guild Local 1931 College & Continuing Education Faculty
 - b. AFT Guild Local 1931 Classified Unit
 - c. AFT Guild Local 1931 Non-Academic Non-Classified Employees
 - d. AFT Guild Local 1931 Naval Technical Training Program (San Diego)
 - e. POA - Police Officers Association
 - f. Management Association
 - g. SPAA - Supervisory & Professional Administrators Association
 - h. ACE - Association of Confidential Employees
 - i. Technical Instructors Bargaining Organization (Corry Station, FL)
- 2.02 Confer with or receive advice from legal counsel (pursuant to Government Code Section 54956.9) concerning pending litigation. There are three (3) items to discuss.
- 2.03 Administrator Employment Contract (pursuant to Government Code Section 54957), the title of which is Vice President of Student Services, San Diego Continuing Education.
- 2.04 Administrator Employment Contracts (pursuant to Government Code Section 54957), the titles of which are President, Executive Vice Chancellor, Vice Chancellor, and Vice President.
- 2.05 Board of Trustees Self-Evaluation (pursuant to Government Code Section 54957).

3. Open Session Organizational Items

- 3.01 Reconvene Open Session, Room 235-255
- 3.02 Pledge of Allegiance
- 3.03 Report of Action in Closed Session (if applicable)
- 3.04 Administration of Oath of Office for Student Trustees:
Daron Woods– City College; and
Jocelyn Felicano – Miramar College
By Board President Maria Nieto Senour

4. Approval of Minutes

- 4.01 Minutes of the June 9, 2016, Board Meeting - 2:50 p.m.

5. Development of the Consent Calendar

- 5.01 Call for Removal of Items from the Agenda
- 5.02 Board Development of Consent Calendar
- 5.03 Call for Academic Senates' Agenda Items for Discussion
- 5.04 Adoption of Consent Calendar

6. Public Comment

- 6.01 Public Comments Guidelines

7. Collective Bargaining

- 7.01 Call For Presentations (if any) By Exclusive Agent(s) Representing Employees:
- 7.02 Public Response to Initial Proposal(s) of Employee Organizations.
- 7.03 Announcement(s) of Proposed Tentative Agreement(s) Between the District and Exclusive Agents Representing Employees.
- 7.04 Announcement(s) of Agreement(s) Between the District and Exclusive Agents Representing Employees.

8. Reports

- 8.01 Report on Communications/Statewide & Legislative Issues – Chancellor
- 8.02 Report of the Trustees
- 8.03 Report of the Chancellor

9. Board Policies

10. New Business

- 10.01 Presentation of contractor and small business awards for annual Propositions S and N Recognition Program for Exemplary Performance.

11. Instructional Services

- 11.01 In the matter of the District's Allied Health Occupations programs authority is requested to enter into agreements with health care agencies for use of clinical facilities by students enrolled in District Health Occupations programs during the 2016-2017 fiscal year.

12. Student Services

13. Budget and Finance

- 13.01 In the matter of the San Diego City College Bridges to the Future program, a collaborative grant project with San Diego State University from the National Institute of General Medical Services, to conduct activities at San Diego City College and San Diego State University to strengthen access for minority students to careers in the biological sciences, authority is requested to:
 - 1. Enter into a contract agreement with San Diego State University Research Foundation; and
 - 2. Accept, budget and spend \$3,847 in the 2015-2016 General Fund/Restricted Budget, as a prior-year adjustment.

13. Budget and Finance (Continued)

- 13.02 In the matter of the State Chancellor's Industry-Driven Regional Collaborative 2016-2017 Grant awarded to San Diego City College from the California Community Colleges Chancellor's Office, authority is requested to accept, budget and spend \$500,000 in the 2016-2017 General Fund/Restricted Budget.
- 13.03 In the matter of Deputy Sector Navigator - Information, Communication/Digital Media (ICT) grant renewal awarded by the California Community Colleges Chancellor's Office (CCCCO), Economic and Workforce Development Program (EWD) to San Diego City College, authority is requested to accept, budget and spend \$200,000 in the 2016-2017 General Fund/Restricted Budget.
- 13.04 In the matter of the Deputy Sector Navigator - Advanced Manufacturing Sector grant awarded by the California Community Colleges Chancellor's Office (CCCCO), Economic and Workforce Development Program (EWD) to San Diego City College, authority is requested to accept, budget and spend \$200,000 in the 2016-2017 General Fund/Restricted Budget.
- 13.05 In the matter of the Enrollment Growth for Associate Degree in Nursing Program Grant at San Diego City College, authority is requested to accept, budget and spend \$188,200 from the California Community Colleges Chancellor's Office (CCCCO) in the 2016-2017 General Fund/Restricted Budget.
- 13.06 In the matter of the Assessment, Remediation, and Retention for Associate Degree In Nursing Grant at San Diego City College, authority is requested to accept, budget and spend \$57,000 from the California Community Colleges Chancellor's Office (CCCCO) in the 2016-2017 General Fund/Restricted Budget.
- 13.07 In the matter of the Wounded Warrior Project and San Diego Military Education, City College, authority is requested to:
1. Enter into an agreement with the Wounded Warrior Project in the amount of \$887 to teach a Personal Financial Management Course at the Wounded Warriors Transition Training Academy, San Diego; and
 2. Accept, budget and spend \$887 in the 2016-2017 General Fund/Restricted Budget.
- 13.08 In the matter of San Diego City College's agreement with the California Community College Chancellor's Office (CCCCO), Funds for Student Success (FSS), to provide academic counseling, contextualized tutoring, recruiting, and community service experience for students at East Village High School: An Early College in Partnership with San Diego City College (formerly known as San Diego Early/Middle College High School), as well as professional development for instructors at SDCC and EVHS, authority is requested to accept, budget and spend \$99,000 in the 2016-2017 General Fund/Restricted Budget.
- 13.09 In the matter of an agreement with the "Community Colleges Basic Skills and Student Outcomes Transformation Program" award, a grant funded by the California Community Colleges Chancellor's Office, awarded to San Diego Miramar College, authority is requested to:
1. Enter into an agreement with California Community Colleges Chancellor's Office in the amount of \$1,368,876 within a three-year project starting July 1, 2016, through June 30, 2017, with up to two additional renewals; and
 2. Accept, budget and spend \$1,368,876 in the 2016-2017 General Fund/Restricted Budget.
- 13.10 In the matter of the Child Development programs, California State Preschool (CSPP-6442) and the General Child Care and Development (CCTR-6211) contracts, at San Diego City, Mesa, and Miramar colleges, authority is requested to accept, budget and spend \$445,564 (CSPP-6442) and \$321,411 (CCTR-6211) from the California Department of Education for operation of the Child Development Centers in the 2016-2017 General Fund/Restricted Budget.
- 13.11 In the matter of a one-year grant awarded by the County of San Diego Health and Human Services Agencies (HHS), to provide professional services for learning disabilities screening, testing, reporting and consulting for CalWORKs Welfare-to-Work participants, authority is requested to:
1. Enter into a one-year agreement with HHS for fiscal year 2016-2017 in the amount up to \$250,000, which is \$120,000 plus \$500 per completed assessment, with an expectation that up to 70 assessments would be completed; and
 2. Accept, budget and spend \$175,000 from HHS in the 2016-2017 General Fund/Restricted Budget.

13. Budget and Finance (Continued)

- 13.12 Approval of purchase orders prepared during the period of May 1, 2016, through May 31, 2016.
- 13.13 Approval of purchase orders prepared during the period of June 1, 2016, through June 30, 2016.
- 13.14 Authority is requested to award bid #17-02 for a requirements contract for the purchase of various cosmetology accessories and items to Burmax, Inc. as the most responsive and responsible bidder, on the basis of the listed base bids.

14. Human Resources

- 14.01 Certification of short-term personnel service effective on or after July 22, 2016, per California Education Code Section 88003.
- 14.02 Approval of academic, classified, substitute and student personnel actions relating to appointments, assignment changes, salary changes, status changes, leaves of absence, separations and volunteerism during the period June 1, 2016, through June 30, 2016.
- 14.03 Appointment and ratification of contract of employment for Vice President, Student Services, San Diego Continuing Education, at the San Diego Community College District.
- 14.04 Approval of contracts of employment for certain President, Vice Chancellor and Vice President positions.
- 14.05 In the matter of the reorganization of the San Diego City College Business Services Office (contingent upon review by Human Resources), effective July 22, 2016 authority is requested to:
 - 1. Delete 1.0 FTE vacant Student Services Assistant position (#007252), Range 16 (\$2,967.58-\$4,736.93) AFT Classified Staff Office/Technical Unit in Admissions;
 - 2. Delete 1.0 FTE vacant Student Services Assistant position (#007249), Range 16 (\$2,967.58-\$4,736.93) AFT Classified Staff Office/Technical Unit in Admissions;
 - 3. Delete 1.0 FTE vacant Production Services Assistant position (#007250), Range 14 (\$2,834.70-\$4,524.83) AFT Classified Staff Office/Technical Unit in Reprographics;
 - 4. Establish 1.0 FTE Business Office Support Supervisor position (#00120074), Range 9 (\$4,549.36-\$7,595.34) Supervisory and Professional Administrators Association in Administrative Services; and
 - 5. Establish 1.0 FTE Administrative Technician position (#00120075), Range 22 (\$3,473.44-\$5,544.41) AFT Classified Staff Office/Technical Unit in Administrative Services.
- 14.06 In the matter of the Dean of Student Success and Equity Office at San Diego City College, effective July 22, 2016, (contingent upon review by Human Resources) authority is requested to establish 1.0 FTE Administrative Technician position (#00120073), Range 22 (\$3,473.44-\$5,544.41) AFT Classified Staff Office/Technical Unit in the Department of Institutional Effectiveness. The position will be funded with 47% of San Diego City College, General Fund Unrestricted and 53% with Student Equity funds.
- 14.07 In the matter regarding the creation of a classified management position at San Diego Miramar College in support of a grant awarded by the California Community College Chancellor's Office (CCCCO), effective December 1, 2016, (contingent upon review by Human Resources) authority is requested to establish 1.0 FTE restricted Special Projects Manager position, Range 16 (between Step A \$7,428.55-Step E \$8,939.00) Management Unit.
- 14.08 In the matter of the Student Development and Matriculation unit, Disabled Students Programs & Services (DSPS) Department at San Diego Miramar College (contingent upon review by Human Resources), effective July 22, 2016, authority is requested to establish 1.0 FTE 11-month contract Counselor (DSPS Counselor) position # (00120071), Class 1, Step A - Class 6, Step C (\$5,658.89-\$7,625.90) in the AFT College Faculty Unit. The position will be funded by the San Diego Miramar College Student Equity budget.
- 14.09 In the matter regarding reorganization of the administrative office of Vice President of Instructional Services at San Diego Continuing Education (contingent upon review by Human Resources), effective July 22, 2016, authority is requested to establish 1.0 FTE Curriculum Analyst position (#00120070), Range 9 (\$4,549.36-\$7,595.34) Supervisory and Professional Administrators Association. The position will be funded by the Adult Educational Block Grant (AEBG).

14. Human Resources (Continued)

- 14.10 In the matter of contract positions districtwide, as a result of the 2016-Window-Period and recent classification and organizational reviews, effective July 1, 2016, authority is requested to reallocate or reclassify positions and remove and establish classifications.
- 14.11 In the matter of Facilities Services at the District Service Center, effective July 22, 2016, authority is requested (contingent upon review by Human Resources) to:
1. Establish 1.0 FTE Locksmith position (#00120076), Range 25 (\$3,814.96-\$6,089.54) AFT/Maintenance and Operations unit at District Service Center; and
 2. Establish 1.0 FTE Custodian position (#00120077), Range 13 (\$2,781.09-\$4,439.25) AFT/Maintenance and Operations unit at Miramar Operations.

15. Facilities, Buildings, and Real Estate

- 15.01 In the matter of the surplus District Property at the former site of the Centre City Continuing Education Campus, authority is requested to adopt a long-term ground lease on excess land with Urban Discovery Academy.
- 15.02 In the matter of Propositions S and N, authority is requested to increase funding of an existing consulting agreement with SafeCon Consulting Group Inc. (SafeCon) to provide safety consulting services districtwide.
- 15.03 In connection with Proposition S, authority to award a contract to domusstudio architecture for architectural design services for the Child Development Center project at City College.
- 15.04 In connection with Proposition N, authority to award a contract for the Campus Signage Project at San Diego City College to Clear Sign and Design, Inc., the lowest responsive bidder, on the basis of the listed base bids.
- 15.05 In connection with the membership of the Propositions S and N Citizens' Oversight Committee, authority to appoint Mesa College student Tad Tobar to serve a one-year term as the student representative from July 1, 2016, until June 30, 2017.

16. Information Items

17. Reconvene Closed Session (if applicable)

- 17.01 Reconvene Closed Session (if applicable)
- 17.02 Announcement of Action Taken in Closed Session

18. Adjournment

- 18.01 Adjournment

All exhibits are available for inspection by the public at the Board of Trustees meeting or prior to such meeting, when reports are available. Contact the Board Office at (619) 388-6957.

PUBLIC PRESENTATIONS:

In accordance with Education Code Section 72121.5, members of the public are invited to participate in the governance system of the District by utilizing the PUBLIC COMMENT section of the Board meeting agenda.

Public comment on items listed on the Board meeting agenda shall be heard at the time the item is discussed and prior to Board action on the item. Each presentation shall be limited to five minutes (a total of twenty minutes on the same subject) unless this time limit is waived by action of the Board.

Public comment on matters not listed on the Board meeting agenda may do so during the PUBLIC COMMENTS section of the Board meeting for Regular Board meetings only; for Special Meetings and Retreats, comments are only allowed for items on the posted agenda. In accordance with Education Code Section 72121.5, the Board shall take no action on such matters, other than an action of referral. Each presentation shall be limited to five minutes (total of 20 minutes on the same subject) unless this time limit is waived by action of the Board.

If you wish to submit questions to the Board in your presentation, they should be in writing. At the Board's request, the Chancellor will provide written responses to your questions as soon as possible after the Board meeting.

In compliance with the Americans with Disabilities Act, the San Diego Community College District will make every effort to honor requests for reasonable accommodations made by individuals with disabilities. [ADA TITLE II, SEC. 202.42 USC 12132]

If you need an accommodation, please call 72 hours prior to the scheduled meeting. (619) 388-6983.



SAN DIEGO COMMUNITY COLLEGE DISTRICT

Board of Trustees Policy

Chapter 3 - GENERAL INSTITUTION

BP 3430 PROHIBITION OF HARASSMENT

All forms of harassment are contrary to basic standards of conduct between individuals and are prohibited by state and federal law, as well as this policy, and will not be tolerated. The District is committed to providing an academic and work environment that respects the dignity of individuals and groups. The District shall be free of sexual harassment and all forms of sexual intimidation and exploitation 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, religion, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation of any person, or military and veteran status or because they are perceived to have one or more of the foregoing characteristics.

The District seeks to foster an environment in which all ~~employees, students, unpaid interns, and volunteers~~ individuals 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 ~~individual student, employee, unpaid intern, or volunteer~~ who believes that they have been harassed or retaliated against or who believes that another has been the victim of harassment or retaliation in violation of this policy should immediately report such incidents by following the procedures described in AP 3435 Discrimination and Harassment Investigations. Supervisors are mandated to report all incidents of harassment and retaliation that come to their attention.

This policy applies to all aspects of the academic environment, including but not limited to classroom conditions, grades, academic standing, employment opportunities, scholarships, recommendations, disciplinary actions, and participation in any community college activity. In addition, this policy applies to all terms and conditions of employment, including but not limited to hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leave of absence, training opportunities and compensation.

**CABINET
July 12, 2016**

To this end the Chancellor shall ensure that the institution undertakes education and training activities to counter discrimination and to prevent, minimize and/or eliminate any harassment that impairs access to equal education opportunity or impacts the terms and conditions of employment.

The Chancellor shall establish procedures that define harassment on campus. The Chancellor shall further establish procedures for employees, students, unpaid interns, volunteers, and other members of the campus community that provide for the investigation and resolution of complaints regarding harassment and discrimination, and procedures for students to resolve complaints of harassment and discrimination. All participants are protected from retaliatory acts by the 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, students, unpaid interns, and volunteers particularly when they are new to the institution. They shall be available for students, employees, unpaid interns, and volunteers 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. Unpaid interns who violate this policy and related procedures may be subject to disciplinary measure up to and including termination from the internship or other unpaid work experience program.

References:

Education Code Section 212.5; 44100; 66252; 66281.5; Government Code Sections 12940 and 12950.1; Title IX, Education Amendments of 1972; Title 5, Sections 59320 et seq.; Title VII of the Civil Rights Act of 1964, 42 U.S.C.A. § 2000e.

Adopted: ~~01/28/2016~~ mm/dd/yyyy

Supersedes: BP 3430 ~~2/12/2009~~ 01/28/2016



SAN DIEGO COMMUNITY COLLEGE DISTRICT

Administrative Procedure

Chapter 3 - GENERAL INSTITUTION

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 on campus, and sets forth a procedure for the investigation and resolution of complaints of harassment by or against any ~~staff, faculty member or student within the District~~ individual.

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

Definitions

General Harassment: Harassment based on race, religion, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, gender, gender identity, gender expression, age, sexual orientation of any person, military and veteran status, or the perception that a person has one or more of these characteristics is illegal and violates District policy. Harassment shall be found where, in aggregate, the incidents are sufficiently pervasive, persistent, or severe that a reasonable person with the same characteristics as the victim of the harassing conduct would be adversely affected to a degree that interferes with their ability to participate in or to realize the intended benefits of an institutional activity, employment, or resource.

Gender-based harassment does not necessarily involve conduct that is sexual. Any hostile or offensive conduct based on gender can constitute prohibited harassment if it meets the definition above. 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 that could, depending on the circumstances, meet the definition above, or could contribute to a set of circumstances that meets the definition:

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 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; insults or abusive comments directed at an individual or group based on gender, race, nationality, sexual orientation or other protected status; or gratuitous comments regarding gender, race, sexual orientation, or other protected status that are not 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 their 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 verbal, visual, or physical conduct of a sexual nature made by someone from, or in, the work or educational setting when:

- submission to the conduct is explicitly or implicitly made a term or condition of an individual's employment, academic status, progress, internship or volunteer activity;
- submission to, or rejection of, the conduct by the individual is used as a basis of employment or academic decisions affecting the individual;
- the conduct has the purpose or effect of having a negative impact upon the individual's work or academic performance, or of creating an intimidating, hostile or offensive work or educational environment (as more fully described below); 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 community college.

This definition encompasses two kinds of sexual harassment:

"Quid pro quo" sexual harassment occurs when a person in a position of authority makes educational or employment benefits conditional upon an individual's willingness to engage in or tolerate unwanted sexual conduct.

"Hostile environment" sexual harassment occurs when unwelcome conduct based on a person's sex 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.

Complaints of Harassment

Any student, employee, or third party who believes that they have been discriminated against or harassed by a student, employee, or third party or who believes another has been the victim of discrimination or harassment in violation of the District's policy should immediately report such incidents by following the procedures described in AP 3435 Discrimination and Harassment Investigations.

Consensual Relationships

Romantic or sexual relationships between supervisors and employees, or between administrators, faculty or staff members and students are discouraged. Board Policy 4120, Consensual Relationships, provides that no employee should enter into a consensual relationship with a student actually under that employee's authority and that no employee should participate in the supervision, hiring committee, evaluation or decision pertaining to promotion for someone with whom that person has or has had a consensual relationship. 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, with the result that sexual conduct that was once welcome becomes unwelcome and harassing. In the event that such relationships do occur, the District has the authority to transfer any involved employee to eliminate or attenuate the supervisory authority of one over the other, or of a

teacher over a student. Such action by the District is a proactive and preventive measure to avoid possible charges of harassment and does not constitute discipline against any affected employee.

Academic Freedom

No provision of this Administrative Procedure shall be interpreted to prohibit conduct that is legitimately related to the course content, teaching methods, scholarship, or public commentary of an individual faculty member or the educational, political, artistic, or literary expression of students in classrooms and public forums. Freedom of speech and academic freedom are, however, not limitless and this procedure will not protect speech or expressive conduct that violates federal or California anti-discrimination laws.

References:

Education Code Sections 212.5; 44100; 66281.5;
Title IX, Education Amendments of 1972, 20 U.S.C. § 1681, et seq.; 34 C.F.R. Part 106;
Title 5, Sections 59320 et seq.; Title VII of the Civil Rights Act of 1964,
42 U.S.C.A. § 2000e; Government Code Sections 12940 and 12950.1; Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, et seq.; 34 C.F.R. Part 104; Title II of the Americans Disabilities Act of 1990 (ADA), as amended by the ADA Amendments Act of 2008, 42 U.S.C. § 12131, et. seq.; 28 C.F.R. Part 35; Age Discrimination Act of 1975, 42 U.S.C. § 6101, et. seq.; C.F.R. Part 110.

See Administrative Procedure 3435

Adopted: 01/28/2016 mm/dd/yyyy

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SAN DIEGO COMMUNITY COLLEGE DISTRICT

Administrative Procedure

Chapter 3 - GENERAL INSTITUTION

AP 3435 DISCRIMINATION AND HARASSMENT INVESTIGATIONS

Filing a Timely Complaint: Since failure to report harassment and discrimination impedes the District's ability to stop the behavior, the District strongly encourages anyone who believes they are being harassed or discriminated against, to file a complaint. The District also strongly encourages the filing of such complaints within thirty (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.

All supervisors and managers have a mandatory duty to report incidents of harassment and discrimination; the existence of a hostile, offensive or intimidating work environment, and acts of retaliation.

The District will investigate complaints involving acts that occur off campus if they are related to an academic or work activity.

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

Oversight of Complaint Procedure: The Equal Opportunity and Diversity 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 other staff or to outside persons or organizations under contract with the District. This shall occur whenever the Equal Opportunity and Diversity Officer is named in the complaint or implicated by the allegation in the complaint.

Who May File a Complaint: Any student, employee, or third party who has been subjected to harassment or retaliation or who believes that another has been the victim of harassment or retaliation by a student, employee, or third party in violation of this procedure and the related policy based on 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 military or veteran status, or because they

are 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. A person does not have to allege that they have personally suffered unlawful discrimination to file a complaint.

Where to File a Complaint: A student, employee, or third party who believes that they or others have been discriminated against or harassed by a student, employee, or third party in violation of these policies 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.

A student or employee can file a complaint with their Site Compliance Officer (SCO). In addition, students may also file a complaint with the Dean responsible for student affairs, who will notify the SCO and work with the SCO to resolve the complaint. The SCO will undertake efforts to informally resolve any charges including, but not limited to, investigating the allegations; resolving the conflict amongst the parties; rearrangement of work/academic schedules; providing informal counseling and/or training, etc. The SCO will advise the complainant that they need not participate in an informal resolution of the complaint, as described above, and that they may file a formal complaint. In the case of employment cases, the SCO will advise the complainant that they may file a complaint with the U.S. Equal Employment Opportunity Commission (EEOC) or the Department of Fair Employment and Housing (DFEH).

When a complaint is informally resolved using the Informal Resolution Process, the SCO will address every allegation in the complaint and provide written notification to the parties of the outcome of the Informal Resolution Process as to each allegation that is resolved.

Students are not required to file a new formal complaint if the student's previous attempts at informal resolution of the complaint were unsuccessful or if the student failed to pursue any informal resolution at all.

If a complainant decides to file a formal written unlawful discrimination or harassment complaint against the District, they should file the complaint on a form prescribed by the State Chancellor's Office. A complaint that is not on an official complaint form will be treated in the same manner as one on an official complaint form. These approved forms are available from the Equal Opportunity and Diversity Officer, the Site Compliance Officers or the District's Office of Legal Services and EEO. A copy of the complaint form is attached as Appendix A to this procedure and can also be located at the following URL:

<http://hr.sdccd.edu/docs/eoo/forms/Unlawful%20Discrimination%20Complaint%20-%20Form.pdf>

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

- the Equal Opportunity and Diversity Officer;
- the Vice Chancellor of Human Resources (only if the complaint involves the District's Equal Opportunity and Diversity Officer); and/or
- the State Chancellor's Office.

Contact information for the offices mentioned above are as follows:

Equal Opportunity and Diversity Officer
Office of Legal Services and EEO
3375 Camino Del Rio South, Room 385
San Diego, CA 92108
Phone: (619) 388-6591
Fax: (619) 388-6898
Email: sdccdlegalservices-eeo@sdccd.edu

Site Compliance Officers can be located at the following link:
<http://hr.sdccd.edu/eeo/eeositecomp.cfm>

Office of the Vice Chancellor, Human Resources
3375 Camino Del Rio South, Room 330
San Diego, CA 92108
Phone: (619) 388-6589

State Chancellor's Office
1102 Q Street, Suite 4550
Sacramento, CA 95811
Phone: (916) 445-4826
Email: legalaffairs@cccco.edu

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

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 Equal Opportunity and Diversity Officer immediately.

Intake and Processing of the Complaint: Upon receiving notification of a harassment or discrimination complaint, the Equal Opportunity and Diversity Officer shall:

- Undertake efforts to informally resolve the charges, (if that process has not already been completed by one of the District's SCOs) including but not limited to mediation, rearrangement of work/academic schedules; obtaining apologies; providing informal counseling and/or training, etc.
- Advise the complainant that they 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. Mediation is not appropriate for resolving incidents involving sexual violence.
- Advise a student complainant that they may file a complaint with the Office of for Civil Rights of the U.S. Department of Education and employee complainants may file a complaint with the Department of Fair Employment and Housing. All complainants should be advised that they have a right to file a complaint with local law enforcement, if the act complained of is a criminal act. The District must investigate even if the complainant files a complaint with local law enforcement. In addition, the District should ensure that complainants are aware of any available resources, such as

counseling, health, and mental health services. The Equal Opportunity and Diversity Officer shall also notify the State Chancellor's Office of the complaint.

- 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 Equal Opportunity and Diversity Officer should notify the complainant of their options to avoid contact with the accused individual and allow students to change 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 remove complainants from classes or housing while allowing accused individuals to remain.

Investigation

The Equal Opportunity and Diversity Officer Shall:

- Authorize the investigation of the complaint, and supervise or conduct a thorough, prompt and impartial investigation of the complaint, as set forth below. Where complainants opt for informal resolution, the designated officer will determine whether further investigation is necessary to ensure resolution of the matter and utilize the investigation process outlined below as appropriate. In the case of a formal complaint, the investigation will include interviews with the complainant, the accused, and any other persons who may have relevant knowledge concerning the complaint. This may include victims of similar conduct.
- Review the factual information gathered through the investigation to determine whether the alleged conduct constitutes harassment, or other unlawful discriminatory conduct, giving consideration to all factual information and the totality of the circumstances, including the nature of the verbal, physical, visual or sexual conduct, and the context in which the alleged incidents occurred.
- Set forth the results of the investigation in a written report. The written report shall include a description of the circumstances giving rise to the complaint, a summary of the testimony of each witness, an analysis of any relevant data or other evidence collected during the investigation, a specific finding as to whether 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, the complainant's right to appeal to the District's governing board, and if the complainant's complaint does not involve employment discrimination, 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 a summary of the investigative report within ninety (90) days from the date the District received the complaint. The complainant shall also be provided with a written notice setting forth the determination of the Equal Opportunity and Diversity Officer as to whether harassment or other discriminatory conduct did or did not occur with respect to each allegation in the complaint; a description of action taken, if any, to prevent similar problems from occurring in the future; the proposed resolution of the complaint; and notice of the parties' rights to appeal to the District's Board of Trustees and the State Chancellor's Office. If the complaint involves allegations of employment discrimination, the complainant will be notified of their right to file a complaint with the California Department of Fair

Employment and Housing or the U.S. Equal Employment Opportunity Commission. The results of the investigation and the determination as to whether harassment or other discriminatory conduct occurred shall also be reported to the accused, and the appropriate academic or administrative official(s). Reports to the complainant shall be prepared so as not to violate any applicable privacy rights of the accused.

Investigation of the Complaint: The District shall promptly investigate every complaint of harassment or discrimination. No claim of workplace or academic harassment or discrimination shall remain unexamined. This includes complaints involving activities that occur off campus and in connection with all the academic, educational, extracurricular, athletic, and other programs of the District, whether those programs take place in the District's facilities, on a District bus, or at a class or training program sponsored by the District at another location.

As set forth above, where the complainant opts for an informal resolution, the Site Compliance Officer or Equal Opportunity and Diversity Officer may limit the scope of the investigation, as appropriate. 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 harassment and discrimination complaints. Employees designated to serve as investigators under this policy shall have adequate training on what constitutes sexual harassment, including sexual violence, and that they 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 use the following steps: interviewing the complainant(s); interviewing the accused individual(s); identifying and interviewing witnesses, if needed; reminding all individuals interviewed of the District's no-retaliation policy; considering whether any involved person should be removed from the campus pending completion of the investigation; reviewing personnel/academic files of all involved parties; reach a conclusion as to the allegations and any appropriate disciplinary and remedial action; and see that all recommended action is carried out in a timely fashion. 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 ninety (90) days of the District receiving the complaint.

Cooperation Encouraged: All employees are expected to cooperate with a District investigation into allegations of harassment or discrimination. 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 harassment is, or may be occurring, with or without the cooperation of the alleged victim(s) and regardless of whether a complaint is filed.

Discipline and Corrective Action

If harassment, discrimination and/or retaliation occurred in violation of the policy or procedure, the District shall take disciplinary action against the accused and any other remedial action it determines to be appropriate. The action will be prompt, effective, and commensurate with the severity of the offense. 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 or a referral to counseling services;
- providing medical services or a referral to medical services;
- providing 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
- 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 the District imposes discipline, 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, and should follow-up with complainants to determine whether any retaliation or new incidents of harassment have occurred. 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.

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, they may, within fifteen (15) days, submit a written appeal to the Board of Trustees. 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 forty-five (45) days after receiving the appeal. A copy of the decision rendered by the Board shall be forwarded to the complainant and to the State Chancellor's Office. The complainant shall also be notified of their right to appeal this decision.

If the Board does not act within forty-five (45) days, the administrative determination shall be deemed approved and shall become the final decision of the District in the matter.

In any case not involving workplace discrimination, harassment, or retaliation, the complainant shall have the right to file a written appeal with the State Chancellor's Office within thirty (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.

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 Department of Fair Employment and Housing. In such cases, the complainant may also file a petition for review with the State Chancellor's Office within thirty (30) days after the governing board issues the final decision or permits the administrative decision to become final.

Extension of Time

Within one hundred fifty (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 their appeal rights. If, due to circumstances beyond its control, the District is unable to comply with the one hundred fifty (150) day deadline for submission of materials, it may file a written request for an extension of time no later than ten (10) days prior to the expiration of the deadline.

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 throughout the District 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.

Training

By January 1, 2006, the District shall provide at least two hours of classroom or other effective interactive training and education regarding sexual harassment to all supervisory employees who are employed as of July 1, 2005. All new supervisory employees must be provided with the training and education within six (6) months of their assumption of a supervisory position. After January 1, 2006, the District shall provide sexual harassment training and education to each supervisory employee once every two (2) years.

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

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

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 will include such programs in their orientation programs for new students, and in training for student athletes and coaches. These programs will include discussion of what constitutes sexual harassment and sexual violence, the District's policies and disciplinary procedures, and the consequences of violating these policies. A training program or informational services will be made available to all students at least once annually.

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.

Appendix A - San Diego Community College District Unlawful Discrimination Complaint Form

References:

Education Code Section 66281.5; Government Code 12950.1;
Title 5, Sections 59320, 59324, 59326, 59328, and 59300 et seq.; 28 C.F.R. § 35.107; 34
C.F.R. § 104.7; 34 C.F.R. Section 106.8(b).

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