

**MT. SAN JACINTO COMMUNITY COLLEGE DISTRICT**

**EQUAL EMPLOYMENT OPPORTUNITY PLAN**

Adopted by the Governing Board on September 8, 2022

Revised 08/25/22

## Table of Contents

Plan Component 1. Introduction	3
Plan Component 2. Definitions	4
Plan Component 3. Policy Statement	7
Plan Component 4. Delegation of Responsibility, Authority, and Compliance	9
Plan Component 5. Advisory Committee	10
Plan Component 6. Complaints	11
Plan Component 7. Notification to District Employees	14
Plan Component 8. Training for Screening/Selection Committee	15
Plan Component 9. Annual Written Notice to Community Organizations	16
Plan Component 10. Analysis of District Workforce and Applicant Pool	17
Plan Component 14. Other Measures Necessary to Further Equal Employment Opportunity	21
Appendix A. Unlawful Discrimination Complaint Procedure and Sexual Harassment Policy	A
Appendix B. District Vision, Mission, and Values and District Advertising Resource Page	B
Appendix C. District Advertising Resource Page	C
Appendix D. Diversity Organizations in Riverside County	D
Appendix E. A. P.,- 7120, Recruitment and Selection Procedure	E

## **Plan Component 1. Introduction**

The Mt. San Jacinto Community College District Equal Employment Opportunity Plan (Plan) reflects the District's commitment to fair and equitable treatment in employment towards realizing the full benefits of a culturally diverse and inclusive teaching and learning environment. The District believes that fostering diversity affords the best opportunity to enhance and realize institutional excellence, while preparing those at the center of the institution's mission, the students, to be responsible and culturally competent contributors in an increasingly global society.

The Plan provides an ongoing, systematic approach to evaluating the District's equal employment opportunity (EEO) practices. The primary goals of the Plan are to assess which practices best ensure equal treatment of all applicants and employees; to ensure that decisions regarding those practices are based upon and supported by applicable data; and to create a culturally inclusive environment that supports a diverse academic environment and workforce.

The Plan delineates the EEO practices that the District utilizes to further its commitment to diversity. In concordance with Title 5 of the California Code of Regulations, section 53000 et seq., and other applicable laws, regulations, and District policies and procedures, the Plan details the connection between methods to achieve EEO through measurable outcomes and the District's overarching strategic planning and program review mechanisms.

The Human Resources Department has primary responsibility for the development, review, and systematic evaluation of the Plan. The Plan is reviewed and, as necessary, updated every three years as required by the California Community Colleges Chancellor's Office.

Adopted by the Governing Board of the Mt. San Jacinto Community College District on September 8, 2022.

Roger Schultz, Ph.D.  
Superintendent/President

## Plan Component 2.

### Definitions

Included in this component are definitions for terms used frequently in the Plan.

**Adverse Impact.** *Adverse impact* means that a statistical measure (such as those outlined in the Equal Employment Opportunity Commission's "Uniform Guidelines on Employee Selection Procedures") is applied to the effects of a selection procedure and demonstrates a disproportionate negative impact on any group defined in terms of ethnic group identification, gender, or disability. A disparity identified in a given selection process will not be considered to constitute adverse impact if the numbers involved are too small to permit a statistical comparison.

**Appeal.** *Appeal* means a request in writing made by a complainant to the Mt. San Jacinto College District's Governing Board pursuant to Title 5, section 59338, and/or to the California Community Colleges Chancellor's Office (Chancellor's Office) pursuant to Title 5, section 59339, to review the administrative determination of the District regarding a complaint of discrimination.

**Chancellor.** The Chancellor of the California Community Colleges system.

**Chancellor's Office.** The California Community Colleges Chancellor's Office.

**Complaint.** *Complaint* means a written and signed statement meeting the requirements of Title 5, section 59328 that alleges unlawful discrimination in violation of the nondiscrimination regulations adopted by the Board of Governors of the California Community Colleges as set forth in Title 5, section 59300 et seq.

**DFEH.** *DFEH* is an acronym for the California Department of Fair Employment and Housing.

**District.** *District* means the Mt. San Jacinto Community College District. This definition is inclusive of any District program or activity that is funded directly by the state or receives financial assistance from the state, or any other organization associated with the District or its educational centers that receives state funding or financial assistance through the District.

**Diversity.** *Diversity* means a condition of broad inclusion in an employment environment that offers equality and respect for all persons. It requires both the presence, and the respectful treatment, of individuals from a wide range of ethnic, racial, cultural, age, national origin, religious, sex, gender, sexual orientation, disability, socioeconomic, academic, and other backgrounds protected by federal and state laws and regulations. A diverse educational community demonstrates through its practices that it recognizes the educational benefits to all students of attending school in an environment that promotes and values employee diversity at all levels. Hiring strategies to maximize workforce diversity enhance and include steps for identifying and eliminating adverse impact and the barriers to employment of historically Underrepresented groups. The term Historically Underrepresented Groups refers to groups who have been denied access and/or suffered past institutional discrimination in the United States and, according to the Census and other federal measuring tools, includes African Americans, Asian Americans, Hispanics or Chicanos/Latinos, and Native Americans.

**Equal Employment Opportunity.** *Equal employment opportunity* means that all qualified individuals have a full and fair opportunity to compete for hiring and promotion and to enjoy the benefits of employment with the District. Equal employment opportunity should exist at all levels and in all job categories listed in section 53004(a). Ensuring equal employment opportunity also involves:

1. Identifying and eliminating barriers to employment that disproportionately exclude, or have an adverse impact upon, individuals based on any protected status identified in Government Code section 12940; and
2. Creating an environment which fosters cooperation, acceptance, democracy, and free expression of ideas and is welcoming to individuals from all groups protected from discrimination pursuant to Government Code section 12940.

**Equal Employment Opportunity Plan.** The *Equal Employment Opportunity Plan* is the written document in which the District's workforce is analyzed and specific plans and procedures are set forth for ensuring equal employment opportunity.

**Equal Employment Opportunity Programs.** *Equal employment opportunity programs* means all the various methods by which equal employment opportunity is ensured. Such methods include, but are not limited to, using nondiscriminatory employment practices, actively recruiting, monitoring, and taking additional steps consistent with the requirements of Title 5, section 53006.

**Ethnic Minorities.** *Ethnic minorities*, as defined by Title 5, section 53001(f)(1), means American or Alaskan native, Asian or Pacific Islander, Black/African-American, and Hispanic/Latino.

**Ethnic Group Identification.** *Ethnic group identification* means an individual's identification in one or more of the ethnic groups reported to the Chancellor pursuant to Title 5, section 53004. These groups shall be more specifically defined by the Chancellor consistent with state and federal law.

**In-house or Promotional Only Hiring.** *In-house or promotional only hiring* means that only existing District employees are allowed to apply for a position, except as provided for in section 53021.

**Monitored Group.** *Monitored group* means those groups identified in Title 5, section 53004(b) for which monitoring and reporting is required pursuant to Title 5, section 53004(a).

**OCR.** An acronym for the Office for Civil Rights of the United States Department of Education.

**Person with a Disability.** *Person with a disability* means any person who (1) has a physical or mental impairment as defined in Government Code section 12926 which limits one or more of such person's major life activities; (2) has a record of such an impairment; or (3) is regarded as having such an impairment. A person with a disability is "limited" if the condition makes the achievement of the major life activity difficult.

**Projected Representation.** *Projected representation* means the percentage of persons from a monitored group determined by the Chancellor to be available and qualified to perform the work in question.

**Reasonable Accommodation.** *Reasonable accommodation* means the efforts made on the part of the District to remove artificial or real barriers which prevent or limit the employment and upward

mobility of persons with disabilities. "Reasonable accommodations" may include the items designated in Title 5, section 53025.

**Responsible District Officer.** *Responsible District Officer* means the person identified by the District as the person responsible for receiving and coordinating investigations of complaints of unlawful discrimination filed with the Chancellor's Office pursuant to Title 5, section 59328.

**Screening or Selection Procedure.** *Screening or selection procedure* means any measure, combination of measures, or procedure used as a basis for any employment decision. Selection procedures include the full range of assessment techniques, including but not limited to, traditional paper and pencil tests, performance tests, and physical, educational, and work experience requirements, interviews, and review of application forms.

**Significantly Underrepresented Group.** *Significantly underrepresented group* means any monitored group for which the percentage of persons from that group employed by the District in any job category listed in Title 5, section 53004(a) is below eighty percent (80%) of the projected representation for that group in the job category in question.

## **Plan Component 3.**

### **Policy Statement**

#### Board Policy 3420 Equal Employment Opportunity

##### References:

Education Code Sections 87100, et seq.; Title 5, Section 53000, et seq.

The Board supports the intent set forth by the California Legislature to assure that effort is made to build a community in which opportunity is equalized, and community colleges foster a climate of acceptance, with the inclusion of faculty and staff from a wide variety of backgrounds. It agrees that diversity in the academic environment fosters cultural awareness, mutual understanding and respect, harmony and suitable role models for all students. The Board therefore, commits itself to promote the total realization of equal employment through a continuing equal employment opportunity program.

The Superintendent/President shall develop, for review and adoption by the Board, a plan for equal employment opportunity that complies with the Education Code and Title 5 requirements as from time to time modified or clarified by judicial interpretation.

#### Board Policy 7100 – Commitment to Diversity

##### References:

Education Code Section 87100 et seq.

The District is committed to employing qualified administrators, faculty, and staff members who are dedicated to student success. The Board recognizes that diversity in the academic environment fosters cultural awareness, promotes mutual understanding and respect, and provides suitable role models for all students. The Board is committed to hiring and staff development processes that support the goals of equal opportunity and diversity, while providing equal consideration for all qualified candidates.

## **MSJC Equity Pledge**

We, the Mt. San Jacinto College Faculty, Classified Professionals, and Administrators, acknowledge there are systemic barriers that have historically excluded and prevented equal outcomes for students on the basis of:

- Race/ethnicity
- Gender Identity and Expression
- Sexuality
- National Origin
- Socioeconomic Status
- (Dis)Ability
- Language
- Religion
- Age
- Physical Appearance
- Intersections of these identities.

Therefore, we define equity as an investment and commitment to achieving parity in academic outcomes by removing institutional barriers and creating an inclusive and culturally affirming learning environment. As such, we are dedicated to challenging our perceptions, biases, and blind spots through self-reflection and constant inquiry to identify and eliminate equity gaps and reinvest in our communities.

Our purpose is to celebrate diversity, instill hope, and empower our students to transform their lives and those around them.

## Plan Component 4.

### Delegation of Responsibility, Authority, and Compliance

Achieving the goal of a diverse educational culture requires the collective efforts of the college community as a whole. All employees and agents of the District are responsible for promoting and supporting equal employment opportunity in order to realize the full benefits of a diverse, collaborative, and inclusive District culture. The general responsibilities for the prompt and effective implementation of this Plan are set forth below.

**Governing Board.** The Governing Board is ultimately responsible for the proper implementation of the District's Plan at all levels of District operations, for ensuring equal employment opportunity as described in the Plan, and accountable for the success of the Plan.

**Superintendent/President.** The Governing Board delegates to the Superintendent/President the responsibility for ongoing implementation of the Plan and for providing leadership in supporting and articulating the District's equal employment opportunity policies and procedures. The Superintendent/President shall advise the Governing Board concerning statewide policy emanating from the Board of Governors of the California Community Colleges and direct the publication of an annual report on Plan implementation.

**Equal Employment Opportunity Officer.** The Governing Board designates the Vice President of Human Resources as the Equal Employment Opportunity officer who is responsible for the day-to-day implementation of the Plan. If the designation of the equal employment opportunity officer changes before this Plan is next revised, the District will notify employees and applicants for employment of the new designee. The Equal Employment Opportunity officer is responsible for administering, implementing, and monitoring the Plan and for assuring compliance with the requirements of Title 5, sections 53000 et seq. The Equal Employment Opportunity officer is also responsible for receiving complaints described in Plan Component 6 (Complaints), and for ensuring that District workforce, applicant pools, and selection procedures are properly monitored.

**Equal Employment Opportunity Advisory Committee.** To promote understanding and support of equal employment opportunity policies and procedures, the District has established an Equal Employment Opportunity Advisory Committee (EEOAC), as further detailed in Plan Component 5 (Advisory Committee), and as specified in Title 5, section 53005. The EEOAC acts as an advisory body to the equal employment opportunity officer and the District as a whole; assists in the implementation of the Plan in conformance with state and federal regulations and guidelines; reviews equal employment opportunity progress; and provides suggestions for Plan revisions as appropriate.

**District Employees.** Consistent with applicable state and federal laws and applicable collective bargaining agreements and employee handbooks, employees shall actively promote equal employment opportunity and the diversity goals of the Plan in all facets of District operations and processes, including, but not limited to, recruitment, selection, evaluation, and tenure.

**Agents of the District.** Any organization or individual, whether or not an employee of the District, who acts on behalf of the Governing Board with regard to the recruitment and screening of personnel, is an agent of the District and is subject to all the requirements of this Plan.

**Good Faith Effort.** The District shall make a continuous good faith effort to comply with all the requirements of the Plan.

## **Plan Component 5.**

### **Advisory Committee**

**Role.** The District has established an Equal Employment Opportunity Advisory Committee (EEOAC) to assist in the articulation and implementation of the Plan. The EEOAC assists the District in achieving understanding of and support for equal employment opportunity and non-discrimination policies and procedures consistent with the purposes of the Plan. As further delineated in Plan Component 8 (Training for Screening/Selection Committees), the Equal Employment Opportunity Officer or qualified designees shall train the EEOAC on equal employment compliance and the Plan itself. The specific responsibilities of the EEOAC include:

1. Assisting in developing the District's Plan in compliance with state and federal regulations, statutes, and guidelines.
2. Reviewing the implementation and progress of the Plan and recommending corrective action when necessary.
3. Advising the District's Equal Employment Opportunity Officer in the development and presentation of annual reports to the Governing Board and Superintendent/President and responding to equal employment inquiries and concerns of all employees.
4. Assisting the District's Equal Employment Opportunity Officer in developing and coordinating information programs for District employees.
5. Reviewing and suggesting revisions in services, employment policies, and other written and unwritten rules, policies, practices, and procedures that affect persons with disabilities.
6. Monitoring the implementation of and compliance with the Americans with Disabilities Act.

**Meetings.** The Equal Employment Opportunity Advisory Committee shall meet a minimum of two (2) times per academic year, with additional meetings if needed to review EEO and diversity efforts, programs and policies.

**Composition.** The EEOAC is comprised of District students, faculty, staff, administrators, and community members. A good faith effort shall be made to establish and maintain a committee comprised of a diverse membership and with respect to the principles of participatory governance. The membership of the EEOAC is as follows:

- Chair: Director of Human Resources, Human Resources Department (District Equal Employment Opportunity Officer)
- Three (3) full-time faculty members appointed by the Faculty Senate
- One (1) part-time faculty member appointed by the Faculty Senate
- Two (2) classified unit employees appointed by the Classified Senate
- One (1) member of the Confidential and Supervisory Team
- Two (2) member of the Administrative Team
- Two (2) students appointed by the Associated Student Government
- Two (2) community representatives

## Plan Component 6.

### Complaints

**Overview of EEO and Unlawful Discrimination Complaints.** Pursuant to Title 5, section 53003(c)(2), this component addresses two sources of complaints: (a) those alleging violations of the equal employment opportunity regulations under Title 5, section 53026; and (b) those alleging unlawful discrimination or harassment under Title 5, section 59300, with or without reference to equal employment opportunity violations. All such complaints shall be filed with the District's Equal Employment Opportunity Officer, except those against the Equal Employment Opportunity Officer, which shall be filed with the Superintendent/President.

**Complaints Alleging Violation of the Equal Employment Opportunity Regulations (Title 5, Section 53026).** The District is committed to the principles of equal employment opportunity and has established the following process permitting any person to file a complaint alleging that the requirements of the equal employment regulations, as outlined in Title 5, sections 53000 et seq., have been violated. All complaints shall be in writing, signed and dated by the complainant, and shall contain the following: the name(s) of the individual(s) involved, the date(s) of the alleged violation(s), and a detailed description of the actions constituting the alleged violation(s).

All complaints must be filed as soon as possible after the occurrence of an alleged violation unless the violation is ongoing. Complaints involving current hiring processes must be filed no later than 60 calendar days after such occurrence unless the complainant can verify a compelling reason for the District to waive the 60-day limitation. Complaints alleging violations of the Plan that do not involve a current hiring process must be filed no later than 90 days after such occurrence unless the violation is ongoing.

A complainant may not appeal the District's determination pursuant to Title 5, section 53026 to the Chancellor's Office, but under some circumstances, violations of the equal opportunity regulations in Title 5 may constitute a violation of a minimum condition for receipt of state aid. In such cases, a complaint can be filed with the Chancellor's Office, but the complainant will be required to demonstrate that he/she/they made previous reasonable, but unsuccessful, efforts to resolve the alleged violation at the District level using the process provided by Title 5, section 53026. Guidelines for minimum condition complaints are provided on the website of the Chancellor's Office at [www.cccco.edu](http://www.cccco.edu).

The District may return without action any complaints that are inadequate because they do not state a clear violation of the EEO regulations. All returned complaints must include a District statement of the reason for returning the complaint without action. To the extent practicable, a written determination on all accepted written complaints will be issued to the complainant within 90 days of the filing of the complaint. The Equal Employment Opportunity Officer will forward copies of all written complaints to the Chancellor's Office upon receipt.

If a complaint filed under section 53026 alleges unlawful discrimination, it will be processed according to the requirements of Title 5, section 59300 et. seq.

**Complaints Alleging Discrimination or Harassment (Title 5, Section 59300 et seq).**

Complaints alleging unlawful discrimination or harassment follow the procedures set forth in Title 5, section 59300 et. seq., regardless of whether such complaints also include allegations of equal employment opportunity violations. The District has adopted procedures for complaints alleging unlawful discrimination or harassment, which are included in Appendix A.

## **Plan Component 7.**

### **Notification to District Employees**

The commitment of the Governing Board and the Superintendent/President to equal employment opportunity is emphasized through the broad dissemination of the District's equal employment opportunity policy statement and the Plan. The policy statement will be printed in the college catalogs and class schedules and will include information on how to review or obtain a copy of the Plan.

The Plan and subsequent revisions will be distributed to the Governing Board, the Superintendent/President, administrators, the Faculty Senate's leadership, union and employee group representatives, and members of the District's Equal Employment Opportunity Advisory Committee. The Plan will also be available on the District's website and notifications of updates and revisions will be made via the website and e-mail notification.

Each year, the District will provide all employees with a copy of the District's equal employment opportunity policy statement, Board Policy 3420 (located in Plan Component 3. Policy Statement of the Plan) and written notice summarizing the provisions of the Plan. The Human Resources Department will provide all new employees with a copy of the written notice described above when they commence their employment with the District. The annual notice will contain the following provisions:

1. The importance of the employee's participation and responsibility in ensuring the Plan's implementation.
2. A list of locations where complete copies of the Plan are available, to include, at minimum, the District's website, the President's Office, the Human Resources Department, the District's libraries, and at each department office.

## **Plan Component 8.**

### **Training for Screening/Selection Committees**

Any individual or organization, whether or not an employee of the District, who participates in the recruitment and screening/selection of personnel, shall receive appropriate training on the following information:

- The requirements of the Title 5 regulations on equal employment opportunity (section 53000 et. seq.)
- The requirements of federal and state nondiscrimination laws
- The District's policies on nondiscrimination, recruitment, and hiring
- The requirements of the District's Plan
- Principles of diversity and cultural proficiency
- The value of a diverse workforce
- Recognizing bias
- Diversity summit recommendations
- Academic Senate recommendations
- EEO Compliance Training
- EEO Foundation Training

Persons serving on hiring committees will be required to receive training prior to serving on a hiring process and every two years thereafter. This training is mandatory; individuals who have not received this training will not be allowed to serve on screening/selection committees. The Human Resources Department is responsible for providing the required training.

Any individual, whether or not an employee of the District, acting on behalf of the District with regard to recruitment and screening/selection of employees is subject to the equal employment opportunity requirements of Title 5 as pursuant to section 53020(c) and the Plan.

## **Plan Component 9.**

### **Annual Written Notice to Community Organizations**

The Equal Employment Opportunity Officer will provide annual written notice to appropriate community-based and professional organizations concerning the Plan for the purpose of seeking assistance from the community in identifying qualified applicants. The notice will inform these organizations of how they may obtain a copy of the Plan and shall request their assistance in identifying diverse, qualified candidates. The notice will include a summary of the Plan and the website address where the District advertises its job openings, as well as contact information for District employees and departments from which employment information may be obtained.

The District will actively seek to reach those institutions, organizations, and agencies that may serve as recruitment resources. A list of the organizations that will receive this notice is contained in Appendix C of this Plan and will be revised periodically as necessary.

## Plan Component 10.

### Analysis of District Workforce and Applicant Pool

The Human Resources Office will annually survey the District's workforce composition and shall monitor applicants for employment on an ongoing basis to evaluate the District's progress in implementing the Plan, to provide data needed for the reports required by this Plan, and to determine whether any monitored group is underrepresented. Monitored groups are males, females, American Indians/Alaskan Natives, Asians or Pacific Islanders, Blacks/African-Americans, Hispanics/Latinos, Whites, and persons with disabilities.

For purposes of the survey and reports, each applicant or employee will be afforded the opportunity to voluntarily identify his/her/their or his gender, ethnic group identification, and, if applicable, his/her/their disability. Persons may designate as many ethnicities as they identify with, but shall be counted in only one ethnic group for reporting purposes. Approximately (one-third) of employees in the Executive/Administrative/Managerial category and slightly (one-fourth) of employees in the Professional Non-faculty categories are of historically underrepresented ethnic groups.

The District will annually report to the State Chancellor's Office, the results of its annual survey of employees. At least every three years the Plan will be reviewed and, if necessary, revised based on an analysis of the ethnic group identification, gender, and disability composition of existing staff and of those who have applied for employment in each of the following identified job categories:

- 1) Executive/Administrative/Managerial
- 2) Faculty
- 3) Professional Non-faculty
- 4) Secretarial/Clerical
- 5) Technical and Paraprofessional
- 6) Skilled Crafts
- 7) Service and Maintenance

**Analysis of District Workforce.** The District's current employee demographic data is shown below. Data on employees with disabilities is not currently available. This information will be provided at such time that the Chancellor's Office provides availability data on applicants with disabilities to all districts.

Employee Count	Gender												
	African American	Asian	Filipino	Hispanic	Multi-Race	Native American	Pacific Islander	Unknown	White	F	M	U	Grand Total
Board Member				1				4		1	2	2	5
Business and Financial	2		1	2	1	1		2	4	10	3		13
Classified Part Time	3	1	1	31	3			2	23	44	20		64
Community, Social Service, Legal, Arts, Design, Entertainment, Sports and Media				1				0	5	1	5		6
Computer, Engineering, and Faculty	1		1	5	1				9	1	16		17
Faculty Associate	9	7	4	43	6	3	2	8	96	94	84		178
Healthcare Practitioners and Librarians, Curators, and Management	44	30	9	89	9	6		22	274	268	215		483
Natural Resources, Construction, and Office and Administrative				1					1	1	1		2
Research					1				4	5			5
Sales and Related	10	1	2	8	1	1		6	30	37	22		59
Service Occupations	3		1	10					8		21	1	22
Student and Academic Affairs and Other Education Services	6	2	1	39	8	1			22	70	9		79
Student Worker				1					1		2		2
Unknown				6	1				7	1	13		14
Grand Total	3		1	18	2			1	14	27	12		39
	7	3	7	43	13			8	22	56	46	1	103
	8	4		41	8	3		2	33	53	44	2	99
	96	48	28	339	54	15	2	55	555	671	515	6	1192

The District's workforce is currently 41% male and 59% female. Some classifications of employees do not follow the overall gender breakdown and tend toward one gender or the other. Classified part-time staff are 30% male and 70% female and office and administrative support are 10% male and 90% female. While females are the majority in most classifications, the reverse is true for computer/engineering/science and service occupations where currently males make up 95% and 87% of the workforce respectively. Full-time faculty are the most evenly distributed group with 45% male and 55% female, while associate faculty are 43% male and 57% female.

Ethnic diversity within the job categories currently varies. As has been the case for several years, there is more diversity within non-faculty jobs than within both full-time and associate faculty jobs. Faculty positions currently consist of 56% white, 20% Hispanic, and 8% African American. These percentages are close to the service areas breakdown of these ethnicities with African American slightly overrepresented at the District and Hispanic slightly underrepresented. The results are the same when compared with the District's student population. Classified professionals are also fairly aligned with both the service area and student demographics with 35% white, 45% Hispanic, and 8% African American. Again, there is a slight overrepresentation of African American and slight underrepresentation of Hispanic, although there is an underrepresentation of white employees in this category. Management and supervisory/confidential currently consist of 46% white, 23% Hispanic, and 10% African American whereas management alone is 51% white, 14% Hispanic, and 17% African American. There are a higher number of employees selecting 'unknown' for ethnicity, including 10% of management positions.

**Analysis of Applicant Pools.** The District collects applicant demographic data for completed recruitments each fiscal year commencing on July 1 and ending on June 30. This information consists of the ethnic, gender, and disability composition of applicant pools, interviewees, and hires. The applicant demographic data for the past three fiscal years of 2018-19, 2019-20, 2020-21 is presented below. Data on applicants with disabilities is not available. This information will be provided at such time that the Chancellor’s Office provides applicant availability data to all districts.

**Mt. San Jacinto Community College District Applicant Pool Data: 2020 – 2021**

	Classified									Faculty									Administrative									Totals								
	Applicants			Interviewed			Hired			Applicants			Interviewed			Hired			Applicants			Interviewed			Hired			Applicants			Interviewed			Hired		
	M	F	DNI	M	F	DNI	M	F	DNI	M	F	DNI	M	F	DNI	M	F	DNI	M	F	DNI	M	F	DNI	M	F	DNI	M	F	DNI	M	F	DNI	M	F	DNI
Asian	26	61	0	7	10	0	1	0	0	13	18	0	1	4	0	0	1	0	5	8	0	3	3	0	0	0	0	44	87	0	11	17	0	1	1	0
Black-African American	39	97	0	12	17	0	2	0	0	10	25	0	2	5	0	0	0	0	8	23	0	0	14	0	0	1	0	57	145	0	14	36	0	2	1	0
Filipino	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Hispanic	180	390	46	59	64	7	11	4	0	61	112	31	10	22	9	1	2	0	15	17	4	11	8	1	1	1	0	256	519	81	80	94	17	13	7	0
American Indian-Alaskan	21	9	0	4	1	0	0	0	0	1	1	0	0	0	0	0	0	0	1	1	0	1	1	0	0	0	0	23	11	0	5	2	0	0	0	0
Pacific Islander	3	10	0	2	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	3	12	0	2	0	0	0	0	0
Unknown/Non-Responding	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Two or More	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
White	133	241	0	35	32	0	5	5	1	57	94	0	6	13	0	0	1	0	38	23	0	12	17	0	0	1	0	228	358	0	53	62	0	5	7	1

**Mt. San Jacinto Community College District Applicant Pool Data: 2019 – 2020**

	Classified									Faculty									Administrative									Totals								
	Applicants			Interviewed			Hired			Applicants			Interviewed			Hired			Applicants			Interviewed			Hired			Applicants			Interviewed			Hired		
	M	F	DNI	M	F	DNI	M	F	DNI	M	F	DNI	M	F	DNI	M	F	DNI	M	F	DNI	M	F	DNI	M	F	DNI	M	F	DNI	M	F	DNI	M	F	DNI
Asian	35	74	0	11	14	0	4	4	0	7	3	0	1	0	0	1	0	0	3	4	0	3	1	0	0	0	0	45	81	0	15	15	0	5	4	0
Black-African American	58	155	0	12	25	0	2	4	0	2	2	0	0	0	0	0	0	0	12	7	0	6	3	0	0	0	0	72	164	0	18	28	0	2	4	0
Filipino	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Hispanic	157	479	83	34	74	6	8	12	2	4	12	6	2	4	4	2	2	2	27	7	1	6	13	0	0	0	0	188	498	90	42	91	10	10	14	4
American Indian-Alaskan	9	21	0	3	2	0	0	1	0	0	0	0	0	0	0	0	0	0	1	4	0	1	2	0	0	0	0	10	25	0	4	4	0	0	1	0
Pacific Islander	4	9	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	1	0	0	0	0	0	5	9	0	2	0	0	0	0	0
Unknown/Non-Responding	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Two or More	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
White	131	321	0	30	51	0	4	11	1	15	33	0	1	6	0	0	2	0	36	13	0	8	12	0	1	2	0	182	367	0	39	69	0	5	15	1

**Mt. San Jacinto Community College District Applicant Pool Data: 2018– 2019**

	Classified									Faculty									Administrative									Totals								
	Applicants			Interviewed			Hired			Applicants			Interviewed			Hired			Applicants			Interviewed			Hired			Applicants			Interviewed			Hired		
	M	F	DNI	M	F	DNI	M	F	DNI	M	F	DNI	M	F	DNI	M	F	DNI	M	F	DNI	M	F	DNI	M	F	DNI	M	F	DNI	M	F	DNI	M	F	DNI
Asian	22	78	3	5	7	1	0	0	0	28	14	0	13	10	0	0	0	0	12	6	0	3	3	0	0	0	0	62	98	3	21	20	1	0	0	0
Black-African American	105	299	1	14	26	0	5	4	0	17	23	0	4	5	0	1	0	0	34	45	0	5	10	0	1	1	0	156	367	1	23	41	0	7	5	0
Filipino	19	62	0	8	5	0	1	1	0	3	4	0	2	2	0	0	0	0	5	1	0	0	3	0	0	0	0	27	67	0	10	10	0	1	1	0
Hispanic	258	810	2	41	80	0	6	19	0	41	73	0	18	18	0	0	0	0	33	31	0	4	4	0	1	0	0	332	914	2	63	102	0	7	19	0
American Indian-Alaskan	16	25	0	2	9	0	0	2	0	7	6	0	3	5	0	0	0	0	5	8	0	1	1	0	0	0	0	28	39	0	6	15	0	0	2	0
Pacific Islander	4	17	0	0	2	0	0	0	0	1	2	0	0	0	0	0	0	0	0	2	0	0	0	0	0	0	0	5	21	0	0	2	0	0	0	0
Unknown/Non-Responding	44	103	19	3	12	6	0	4	1	12	21	4	1	2	0	0	0	0	8	14	5	3	3	0	0	1	0	64	138	28	7	17	6	0	5	1
Two or More	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
White	229	529	0	50	59	0	15	8	0	80	86	0	28	24	0	5	4	0	50	51	0	8	12	0	2	2	0	359	666	0	86	95	0	22	14	0

The following models will allow the District to conduct a strategic assessment of availability and utilization to align its workforce diversity efforts with the demographics of its students, local community, and national workforce. Ongoing recruitment and strategic planning efforts will be designed to show measurable improvements in workforce diversification using this data.

### EEO MODEL Availability Groupings

	Total District Model	Admin model	Full time Faculty model	Part Time Faculty model	Classified model
White	29.00%	42.10%	31.00%	29.70%	30.20%
Black	7.00%	6.50%	7.40%	7.00%	7.10%
Hispanic	47.40%	30.40%	45.30%	46.80%	46.80%
Asian	6.80%	12.78%	7.30%	7.30%	7.40%
Native	0.40%	0.26%	0.40%	0.40%	0.40%
Other/unknown	9.40%	8.00%	8.80%	8.80%	8.10%
Total minority	61.60%	49.90%	60.20%	61.60%	61.70%
Females	56.00%	55.39%	55.50%	55.50%	55.00%
Males	44.00%	44.62%	44.50%	44.50%	45.00%

## **Plan Component 14.**

### **Other Measures Necessary to Further Equal Employment Opportunity**

Equal employment opportunity means that all qualified individuals have a fair and equitable opportunity to compete for hiring and promotion and to enjoy the benefits of employment with the District. The District's goal is to ensure that equal employment opportunity exists at all levels of the institution and within all job categories. Ensuring equal employment opportunity also involves cultivating an environment that fosters cooperation, acceptance, democracy, and the free expression of ideas and is welcoming to individuals from all groups protected from discrimination under federal and state law.

The District recognizes that multiple approaches beyond the specific requirements of Title 5, section 53000 et. seq. are necessary to creating a broadly inclusive academic culture that ensures equal employment opportunity and the creation of a diverse workforce. Specific approaches that the District will implement to promote diversity and the goals of equal employment opportunity include, but are not limited, to the following approaches:

#### **District-Wide Approaches.**

1. The District's vision, mission, and values, included in Appendix B, emphasize the District's commitment to diversity and shape the concepts of equitable and fair treatment of individuals in all aspects of District operations.
2. Information about the District's EEO and non-discrimination policies and procedures are posted on the District's website and cross-referenced on a number of District web pages so that the information is easily available to students, employees, job seekers, and the public. Appendix A provides links to these pages.
3. A variety of events are hosted by various District entities throughout the academic year that focus on diversity topics, including the annual Unity in Diversity event hosted by the Equal Employment Opportunity Advisory Committee. Further information about current diversity-related activities can be found on the District website at [www.msjc.edu](http://www.msjc.edu).

#### **Recruitment.**

1. The District advertises positions in a broad range of venues to attract large, diverse, well-qualified applicant pools. The District's current advertising resource list is in Appendix B.
2. Employment applicants are required to address their sensitivity to various facets of diversity found within a community college in their application materials and, in turn, requiring selection committees to assess each qualified applicant's understanding of diversity based on the provided information. The selection process training materials in Appendix E outline this requirement.
3. Selection committees are required to develop interview questions that assess candidates' understanding of diversity in relation to the specific position. The selection process training materials in Appendix E outline this requirement.

4. District Compliance Officers serve on selection committees as non-voting observers to ensure that all District selection procedures and federal and state EEO regulations are followed.
5. The District added a survey initiative in partnership with CSEA stakeholders identify how to increase CSEA representation on hiring committees.

**Employee Training.**

1. Sexual harassment prevention training is available to all District employees, including those employees mandated to receive such training under AB 1825 and AB 1343.
2. Trainings on other diversity, non-discrimination, and cultural proficiency topics are offered to all employees through the Human Resources Department and the District's Professional Development program.

## **Appendix A.**

### **Prohibition of Harassment, Unlawful Discrimination Complaint Procedures, Sexual Harassment, Title IX, and Accommodation Policies**

- A.I. Prohibition of Harassment Policy BP 3430: A-1
- A.II. Sexual Harassment Policy: A-2
- A.III. Responding to Discrimination and Harassment Policy AP 3410: A -3
- A.IV Civility and Mutual Respect Policy AP 3411: A -4
- A.V. Accommodations Policy AP 7348: A-5
- A.V. Title IX Policies (<https://go.boarddocs.com/ca/msjc/Board.nsf/Public>)

---

**Mt. San Jacinto Community College District**

**Administrative Procedure**

Chapter 3 – General Institution

---

**BP3430 PROHIBITION OF HARASSMENT**

**References:**

Americans with Disabilities Act of 1990 (ADA)

Age Discrimination in Employment Act of 1967 (ADEA);

Title VII of the Civil Rights Act of 1964, 42 U.S. Code Annotated Section 2000e

Title 2 Section 10500 et seq.;

Civil Code Section 51.9;

Government Code Sections 12923, 12940, and 12950.1;

Education Code Sections 212.5, 44100, 66252, and 66281.5;

All forms of harassment are contrary to basic standards of conduct between individuals, State, and federal law. This policy prohibits harassment and the District will not tolerate harassment. 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 unlawful harassment, including that which is based on any of the following 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, sexual orientation, military and veteran status, or because he/she/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 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. The District will investigate all allegations of retaliation swiftly and thoroughly. If the District determines that someone has retaliated, 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, employee, unpaid intern, or volunteer who believes that he/she/they have been harassed or retaliated against in violation of this policy should immediately report the incidents by following the procedures described in AP 3410. The District requires supervisors 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.

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

The Superintendent/President shall establish procedures that define harassment on campus. The Superintendent/President 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 to resolve complaints of harassment and discrimination. State and federal law and this policy prohibit retaliatory acts by the District, its employees, students, and agents.

The District will publish and publicize this policy and related written procedures (including the procedure for making complaints) to administrators, faculty, staff, students, unpaid interns, and volunteers, particularly when they are new to the institution. The District will make this policy and related written procedures (including the procedure for making complaints) available in all administrative offices and will post them on the District's website.

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 measures up to and including termination from the internship or other unpaid work experience program.

**59362. Judicial Review**

A decision by the Chancellor pursuant to Section 59360 is subject to judicial review by the district, as provided by Section 4 1094.5 of the Code of Civil Procedure.

**\*\*Note - "Chancellor" means Chancellor of California Community Colleges. \*\***

**ATTACHMENT B**



**Unlawful Discrimination Complaint Form**

**Name:** \_\_\_\_\_  
*Last First*

**Address:** \_\_\_\_\_  
*Street or P.O. Box City State Zip*

**Phone:** Day ( \_\_\_\_\_ ) Evening ( \_\_\_\_\_ )

**I Am A:**  Student  Employee  Other: \_\_\_\_\_

**I Wish To Complain Against:** \_\_\_\_\_

**District:** Mt. San Jacinto Community College District **College:** Mt. San Jacinto Community College

**Date of Most Recent Incident of Alleged Discrimination:** \_\_\_\_\_

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

**I Allege Discrimination Based on the Following Category Protected under Title 5 (you must select at least one):**

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

**Clearly state your complaint.** Describe each incident of alleged discrimination separately. For each incident provide the following information: **1)** date(s) the discriminatory action occurred; **2)** name of individual(s) who discriminated; **3)** what happened; **4)** witnesses (if any); and **5)** why you believe the discrimination was because of your religion, age, race, sex or whatever basis you indicated above. **\*\*If applicable, explain why you believe you were retaliated against for filing a complaint or asserting your right to be free from discrimination on any of the above grounds.**

*(Attach additional pages as necessary.)*

Appendix A - II. Sexual Harassment Policy

**Sexual Harassment Policy**

**District Policy and Procedures**  
**Individual Rights and Responsibilities**  
*(Applicable to all Students, Faculty and Staff)*

**January 8, 2022**

# TABLE OF CONTENTS

Purpose and Philosophy .....	3
References.....	3
Monitoring Responsibility.....	3
Policy (Board Policy 3430).....	3
Definitions .....	4
Complaint Procedures .....	5
Confidentiality .....	6
Initial Investigation and (Informal) Resolution Procedures .....	6
Formal Investigation .....	8
Retaliation Prohibited .....	8
Discipline.....	9
False Complaints .....	9
Training .....	9
Records .....	10
Policy Dissemination and Review.....	10
Acquired Immune Deficiency Syndrome.....	10
Americans with Disabilities Act (ADA) .....	10

## ATTACHMENTS

Attachment A Education Code (California Community Colleges) .....	12
Attachment B Unlawful Discrimination Complaint Form .....	16
Attachment C Notifications .....	17
Attachment D U.S. Department of Education.....	18

## **Purpose and Philosophy**

Sexual harassment is one of many forms of discrimination and abusive behavior. Other forms of discrimination, such as that based on race, color, sex, ancestry, national origin, disability (mental and physical), including HIV and AIDS, medical conditions such as cancer, age (40 and above), and marital status, are also prohibited. Sexual harassment is abusive and illegal behavior that harms victims and negatively impacts the district's culture by creating an environment of fear, distrust and intolerance. Because the district is committed to provide a safe, healthy environment for all employees and students that promote respect, dignity, and equality, it is the purpose of this policy to create and preserve an educational environment free from unlawful sexual harassment and discrimination on the basis of sex.

## **References**

- 20 U.S.C. §1681, Education Amendments of 1972, Title IX. No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.
- 34 C.F.R. §§106.1-106.71, U.S. Department of Education Office for Civil Rights Regulations Implementing Title IX. This provision requires designation of Student Judicial Affairs Coordinator, grievance procedure, and public notice of Title IX policies and procedures.
- 42 U.S.C. §2000e, Civil Rights Act of 1964, Title VII. This provision prohibits employers from discriminating on the basis of sex.
- 29 C.F.R. §1604.11, Equal Employment Opportunity Commission (EEOC) Regulations Implementing Title VII.

The following regulations provide guidelines on sexual harassment in the workplace.

- California Fair Employment and Housing Act (Government Code §12900 et seq.)
- Sex Equity in Education Act (Education Code, §66250 et seq.)
- Assembly Bill 80 of 1977 (Government Code §§11135 et seq.)
- Chapter 2, Division 4, Title 2, of the California Administrative Code.
- Subsection 1 (Commencing with §53000), Section 2, Chapter 1, Division 4, Title 5, of the California Administrative Code.
- §87100 of the California Education Code.
- §212.5 of the California Education Code.

## **Monitoring Responsibility**

The Vice President of Human Resources and Director of Judicial Affairs as designated by the Board of Trustees will be responsible for ensuring compliance with this policy. The Vice President of Human Resources will yearly evaluate, among other things: The frequency and nature of complaints under this policy; employee and student compliance with the policy; employee and student perceptions of the policy's effectiveness. Results of the evaluation will be used to modify or update the policy as appropriate, with an emphasis on remedying deficiencies.

## **Policy (BP 3430)**

The policy of the Mt. San Jacinto Community College District is to provide an educational and employment environment including but not limited to access to its services, classes and programs in which no person shall be subjected to unlawful harassment and where such environment is free from unwelcome sexual advances, requests for sexual favors, sexual favoritism, or other verbal or physical conduct or communications constituting sexual harassment. It shall also be free of other unlawful harassment, including but not limited to harassment based on race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation of any person, or because he/she/they are perceived to have one or more of the foregoing characteristics.

Any student or employee who believes that he/she/they have been harassed or retaliated against in violation of this policy should immediately report such incidents by following the procedures described in [Administrative Procedure 3410](#).

The Superintendent/President shall establish procedures that define harassment on campus or in with district-sponsored events. The Superintendent/President shall further establish procedures for employees, students, and other members of the campus community that provide for the investigation and resolution of complaints regarding harassment and discrimination, and procedures for students to resolve complaints of harassment and discrimination. All participants are protected from retaliatory acts by the district, its employees, students, and agents.

[District Administrative Procedure 3410](#) contains information regarding the specific rules and procedures for reporting charges of sexual harassment and pursuing available remedies. The following applies for the distribution of this policy:

1. This policy shall be displayed in a prominent location in the main administrative building or other areas where notices regarding the institution's rules, regulations, procedures and standards of conduct are posted.
2. The policy shall be provided to students as part of any orientation program conducted for new students at the beginning of each quarter, semester, or summer session, as applicable.
3. This policy shall be provided to all faculty, administrators, and staff at the beginning of the first semester of the school year, or at the time there is a new employee hired.
4. This policy shall appear in any publication of the district that sets forth the comprehensive rules, regulations, procedures, and standards of conduct for the institution.

## **Definitions**

"Sexual harassment" is defined as being unwelcome sexual advances, requests for sexual favors, other unwanted physical or verbal conduct or communications of a sexual nature, and any other gender-based harassment, whether initiated by students, District employees, or third parties, when:

- Submission to the conduct is made explicitly or implicitly a term of employment or condition of a student's education (including any aspect of the student's participation in district-sponsored activities, or any other aspect of the student's education);

- Submission to, or rejection of, the conduct is used as the basis for decisions affecting employment status, a student's academic performance, or participation in District-sponsored activities, or creates an intimidating, hostile, or offensive educational environment.

### **Unacceptable Conduct**

Complaints received will be thoroughly investigated to determine whether the totality of the behavior and circumstances meet any of the elements of the definitions in 5.1 and should be treated as sexual harassment. Unacceptable conduct may or may not constitute sexual harassment. Normally, unacceptable behavior must be severe or pervasive to be considered sexual harassment.

In evaluating the totality of the circumstances and making a determination of whether conduct constitutes sexual harassment, employees who observe unacceptable behavior, as well as administrators conducting an investigation, should consider:

- If the conduct is sexual in nature.
- If the conduct is derogatory toward one gender
- If the conduct is unwelcome
- The behavior would be offensive to a reasonable person of the same gender as the victim.
- The nature, severity, and scope of the incidents;
- The number of students or employees involved directly or indirectly;
- The relationship of the parties involved (employee/student, fellow students), and whether there is equal power between the parties;
- The past discipline history of the parties involved;
- The frequency and duration of the behavior;
- If there is a pattern of behavior;
- Whether the conduct is verbal or physical.

EXAMPLES: Campus-related conduct that the district considers unacceptable and often indicative of sexual harassment includes, but is not limited to, the following:

- Rape, attempted rape, sexual assault, attempted sexual assault, forcible sexual abuse, hazing, and other sexual and gender-based activity of a criminal nature as defined under the California State Penal Code;
- Unwelcome sexual invitations or requests for sexual activity in exchange for grades, promotions, preferences, favors, selection for extracurricular activities, or job assignments, homework, etc.;
- Any unwelcome communication that is sexually suggestive, sexually degrading, or implies sexual motives or intentions, such as sexual remarks or innuendoes about an individual's clothing, appearance or activities or exploits; sexual rumors and "ratings list;" howling, catcalls, and whistles; sexually graphic computer files; messages or games, etc.;
- Unwelcome and offensive name-calling or profanity that is sexually suggestive, sexually degrading, implies sexual intentions, or that is based on sexual stereotypes or sexual preference;

- Unwelcome leers, stares, gestures, or slang remarks that are sexually suggestive, sexually degrading, or imply sexual motives or intentions;
- Unwelcome written or pictorial display or distribution of pornographic or other sexually explicit materials such as magazines, videos, films, Internet material, etc;
- Any other unwelcome gender-based behavior that is offensive, degrading, intimidating, demeaning, or that is based on sexual stereotypes and attitudes.

### **Complaint Procedures**

- In compliance with applicable federal and state law, it is the policy of the district to investigate promptly and resolve equitably all complaints of sexual harassment and discrimination on the basis of sex.
- Victims of sexual harassment shall be afforded avenues for filing complaints that are free from bias, collusion, intimidation, or reprisal.
- Victims of sexual harassment should document the harassment as soon as it occurs. In order to assist investigators, victims should document the harassment with as much detail as possible, including: the nature of the harassment; dates, times, and places it has occurred; name or names of harasser or harassers; witnesses of the harassment; and the victim's response to the harassment.
- To the extent they feel safe and comfortable doing so, victims are first encouraged to confront the harasser, verbally or in a letter and/or with an advocate present, and tell the harasser to stop the conduct because it is unwelcome. Victims should document the incident or incidents of continuing harassment, and any conversations they have with the harasser, noting such information as time, date, place, what was said or done, and other relevant circumstances surrounding the incident(s) and the effect or impact of the behavior on the victim.
- If the victim's concerns are not resolved satisfactorily by communicating with the harasser, or if the victim feels he/she/they cannot discuss the concerns with the harasser, the victim should directly inform a District employee of the complaint and should clearly indicate what action he/she/they want taken to resolve the complaint.
- Any employee who receives a complaint of sexual harassment from a student or another employee shall inform them of their obligation to report the complaint to the District's administration, and then shall immediately notify the Vice Presidents of Human Resources and/or the Director of Judicial Affairs.
- District employees who fail to report complaints of sexual harassment to appropriate administrators or law enforcement authorities may face disciplinary action, up to and including reprimand, suspension, or termination.
- District administrators, or other District officials who fail to report student or employee complaints of sexual harassment may also face disciplinary action, including reprimand, probation, or termination.
- Victims who contact a district employee with a complaint are encouraged to submit the complaint in writing. (See Attachment B – Discrimination Complaint Form available in the Human Resources Office.) However, complaints may be filed verbally. Alternate methods of filing complaints, (such as tape recorders, scribes, etc.), shall be made available to individuals with disabilities who need accommodation.

- The District encourages all persons involved to report complaints as soon as possible (i.e. within ninety (90) days after the incident), in order that complaints can be effectively investigated and resolved.
- Reports/Complaints to Law Enforcement Authorities
- Consistent with District policy, where a complaint contains evidence of violence or criminal activity, the employee and/or Director of Judicial Affairs or Title IX Coordinator, shall refer the complaint to the district Vice President of Human Resources and/or law enforcement authorities for investigation.
- The District encourages any individual who has knowledge of sexual harassment of a violent or criminal nature to independently report the information to law enforcement authorities.
- California Community Compliance and Enforcement (Discrimination Complaints). The District will comply with Title 5 of the California Code of Regulations, Subchapter 5, Articles 3 and 4, §59334 et. al. (See Attachment A).
- Complaints may be filed with the following individuals:
  - Vice President of Human Resources (employees or students)
  - Any administrator or supervisor (employees or students)

### **Confidentiality**

It is District policy to respect the privacy and anonymity of all parties and witnesses to complaints brought under this policy. However, because an individual's need for confidentiality must be balanced with the District's obligations to cooperate with police investigations or legal proceedings, to provide due process to the alleged harasser, to conduct a thorough investigation, or to take necessary action to resolve a complaint, the District retains the right to disclose the identity of parties and witnesses to complaints to individuals only in appropriate circumstances.

### **Initial Investigation and (Informal) Resolution Procedures (See Attachment A)**

- The Vice President of Human Resources and/or designee has the responsibility of conducting a preliminary review when he/she/they receive a verbal or written complaint of sexual harassment, or if he/she/they observe sexual harassment. Except in the case of severe or criminal conduct, the Vice President of Human Resources and/or designee shall make all reasonable efforts to resolve complaints informally. The goal of informal investigation and resolution procedures is to end the harassment and obtain a prompt and equitable resolution to a complaint.
- As soon as possible, but no later than three (3) working days following receipt of a complaint, the Vice President of Human Resources shall commence an investigation of the complaint according to the following steps:
  1. Interview the victim and document the conversation. Instruct the victim to have no contact or communication regarding the complaint with the alleged harasser. Ask the victim specifically what action he/she/they want taken in order to resolve the complaint.
  2. Review any written documentation of the harassment prepared by the victim. If the victim has not prepared written documentation, instruct the victim to do so,

providing alternative formats for individuals with disabilities who have difficulty writing.

3. Interview the alleged harasser regarding the complaint and inform the alleged harasser that if the objectionable conduct has occurred, it must cease immediately. Document the conversation. Provide the alleged harasser an opportunity to respond to the charges in writing.
4. Instruct the alleged harasser to have no contact or communication regarding the complaints with the victim and to not retaliate against the victim. If the alleged harasser does not comply with this instruction, he/she/they shall be subject to immediate disciplinary action.
5. Interview any witnesses to the complaint. Where appropriate, obtain a written statement from each witness. Caution each witness to keep the complaint and his/her/their statement confidential.
6. Review all documentation and information relevant to the complaint.
7. Where appropriate, suggest mediation as a potential means of resolving the complaint. In addition to mediation, utilize appropriate informal methods to resolve the complaint, including but not limited to:
  - A. Discussing with the alleged harasser, informing him/her/their of the District's policies and indicating that the behavior, if occurring, must stop;
  - B. Conducting training for the department or area in which the behavior occurred, calling attention to the consequences of engaging in such behavior;
  - C. Requesting a letter of apology to the complainant;
  - D. Writing letters of caution or reprimand;
  - E. Separating the parties.
  - F. Student or Employee Involvement and Notification
  - G. The representatives or advocates of students who file complaints are welcome to attend each stage of both informal and formal investigation and resolution procedures. Employees bringing complaints shall be informed of their right to be advised by union officials or other professional representatives.
8. Report back to both the victim and the alleged harasser, notifying them in writing, and also in person as appropriate, regarding the outcome of the investigation and the action taken to resolve the complaint. Instruct the victim to report immediately if the objectionable behavior occurs again or if the alleged harasser retaliates against him/her/them.
9. Notify the victim that if he/she/they desire further investigation and action, he/she/they may request a formal district investigation by contacting the Vice President of Human Resources or designee. Also, notify the victim of his or her right to contact the U.S. Department of Education's Office for Civil Rights, the Department of Fair Employment and Housing (DFEH), and/or a private attorney.

Whenever a sexual harassment complaint is made, district administrators must take action to refer the complaint to the Vice President of Human Resources or designee for investigation, even if the student does not request any action or withdraws the complaint.

If the initial investigation results in a determination that sexual harassment did occur, and the harasser repeats the wrongful behavior or retaliates against the victim, the Vice President of Human Resources shall consult with the appropriate Vice President and the Superintendent/President to determine appropriate disciplinary action.

The Vice President of Human Resources must consider the severity or pervasiveness of the conduct and exercise discretion in determining whether a formal investigation is necessary. If a complaint contains evidence or allegations of serious or extreme harassment, such as criminal touching, or quid pro quo (offering an academic reward or punishment as an inducement for sexual favors), the complaint shall be investigated immediately.

### **Formal Investigation (See Attachment A)**

### **Right to Representation and Other Legal Rights**

The victim and the alleged harasser have the right to be represented by a person of their choice, at their own expense, during sexual harassment investigations and hearings. Students who file complaints may elect to be accompanied by another student of their choice at each stage of the complaint procedure. Victims also have the right to register sexual harassment complaints with the U.S. Department of Education's Office for Civil Rights (OCR).

### **Students and Employees**

U. S. Department of Education  
Office for Civil Rights, Region VIII  
Federal Office Building  
1244 Speer Boulevard, Suite #310  
Denver, CO 80204  
Tel: (303) 844-5695

### **Employees**

State of California  
State and Consumer Services Agency  
Department of Fair Employment & Housing  
110 West "C" Street, Suite 1702  
San Diego, CA 92101  
Tel: (619) 645-2691

### **United States Equal Employment Opportunity Commission (EEOC)**

San Diego Area Office  
401 "B" Street, Suite 1550  
San Diego, CA 92101  
Tel: (619) 557-7282

**Nothing in this policy shall be construed to limit the right of the complainant to file a lawsuit in either state or federal court.**

### **Retaliation Prohibited**

Any act of retaliation against any person who opposes sexually harassing behavior, or who has filed a complaint, is prohibited and illegal and, therefore, subject to disciplinary action. Likewise, retaliation against a person who has testified, assisted, or participated in any manner in an investigation, proceeding, or hearing of a sexual harassment complaint is prohibited. For purposes of this policy, retaliation includes, but is not limited to: verbal or physical threats, intimidation, ridicule, bribes, destruction of property, spreading rumors, stalking, harassing phone calls, and any other form of harassment. Any person who retaliates is subject to immediate disciplinary action, up to and including suspension, probation, or termination.

### **Discipline**

Any individual, including an individual with disabilities, who violates this policy, will be subject to appropriate disciplinary action under applicable Board Policies, Unit Bargaining Agreements, and Education Code discipline procedures. Disciplinary measures available to district authorities may include, but are not limited to, the following:

- Verbal warnings/reprimands;
- Written warning/reprimand in the employee or student's file;
- Requirement of verbal and/or written apology to victim;
- Mandatory education and training on sexual harassment by means of reading assignments, videos, classes, or other presentations;
- Involvement of police and/or other law enforcement authorities.

In addition, if the harassment is severe or persistent, an individual who violates this policy may be subject to suspension, expulsion, probation, or termination. Moreover, students who violate this policy may lose the privilege of participating in extracurricular activities, such as athletics, student government, cheerleading, graduation ceremonies, etc. These penalties may be imposed even for first offenses, which are severe or extreme.

In determining what disciplinary or corrective action is appropriate, district officials shall consider the totality of the circumstances, including, but not limited to:

- The number of victims and harassers involved;
- The prior disciplinary records of the harasser or harassers;
- The disability status of the victim and/or harasser or harassers;
- The threatened or actual harm caused by the harassment; and
- The frequency and/or severity of the harassment.

If district administrators have reasonable suspicion that the harassment involves sexual assault, rape, or any other activity of a criminal nature, they shall notify appropriate law enforcement authorities and immediately initiate appropriate due process proceedings to remove the alleged harasser party from the situation.

## **False Complaints**

False or malicious complaints of sexual harassment will result in corrective or disciplinary action being taken against the complainant. The disciplinary measures available to the district are the same as those listed under the Discipline section of this policy.

## **Training**

All students shall be informed of this policy in student handbooks, folders, and registration materials. A summary of this policy shall also be posted in a prominent location. All Associated Student Body officers shall receive district training about the policy at the beginning of each school year.

All new employees shall receive information about this policy at new employee orientation. All other employees shall be provided information annually and attend awareness training at least once every five (5) years regarding this policy and the district's commitment to a harassment-free learning and working environment.

The Director of Judicial Affairs and other administrative employees who have specific responsibilities for investigating and resolving complaints of sexual harassment shall receive yearly training on this policy and related legal developments from the Vice President of Human Resources.

The Vice President of Human Resources and department administrators shall be responsible for informing students and employees on a yearly basis of the terms of this policy, including the procedures established for investigation and resolution of complaints, general issues surrounding sexual harassment, the rights and responsibilities of students and employees, and the impact of sexual harassment on the victim.

## **Records**

Separate confidential records of all sexual harassment complaints and investigations shall be maintained in the Vice President of Human Resources. Records of investigations shall be maintained in the office of the Vice President of Human Resources.

- Records of informal investigations and resolutions shall be retained for at least three (3) years.
- Records of investigations shall be retained for at least six (6) years.
- Records of complaints and investigations of blatant violations involving criminal touching, quid pro quo situations, or other criminal acts shall be retained permanently.

## **Policy Dissemination and Review**

The Academic Senate, Faculty and Staff Diversity Committee, Management Leadership Council, and President's Cabinet shall annually review this policy's effectiveness. The Vice President of Human Resources and the District's legal counsel shall review this policy annually to determine its compliance with applicable state and federal law and shall update the policy accordingly.

## **Acquired Immune Deficiency Syndrome**

Mt. San Jacinto Community College District is committed to provide a safe, fair, sensitive and nondiscriminatory environment for study. Toward these ends, the following guidelines will apply:

- An individual with Acquired Immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC) or a positive Human-Immunodeficiency Virus (HIV) antibody test result will not be denied enrollment for instruction in any classroom activity as long as he/she/they are able to perform in accordance with established standards.
- Persons with AIDS or ARC, or who are perceived to have such conditions, are considered disabled under state and federal law and may be served through state-funded Disabled Students Programs and Services.
- The administration will develop and implement plans to provide up-to-date AIDS education to students and employees with the purpose of: (1) preventing further spread of the virus; and, (2) minimize myths and unreasonable fears about the disease.

## **Americans with Disabilities Act (ADA)**

American with Disabilities Act, as well as the Rehabilitation Act of 1973, and other laws protecting the rights of persons with disabilities. The Board of Trustees has established compliance with the Americans with Disabilities Act as an institutional priority, where this will not pose an undue burden or fundamentally alter the programs of the institution. The Director of Judicial Affairs, or designee, is the Americans with Disabilities Act (Leave Specialist) for the District. Student and community members with concerns related to access to the college's facilities, programs and services should contact the Director of Judicial Affairs. Employees or employment applicants with ADA related concerns should also contact the Leave Specialist or Vice President of Human Resources.

Should an individual feel that there has been an inappropriate restriction of access to employment or educational opportunities for one or more qualified persons with one or more disabilities, and an adequate remedy has not been forthcoming from the appropriate college office, that individual may file a petition in accordance with the following procedures:

- Petition for Review of Access to Employment shall be filed with the Vice President of Human Resources or designee, who shall investigate each complaint and respond within ten (10) working days.
- Petition for Review of Access to Educational Opportunity shall be filed with the Director of Accommodation Service Center or designee, who shall investigate each complaint and respond within ten (10) working days.
- The response to the petition shall include either a statement of what remedy to the complaint will be provided, or establish the date for a hearing by the A.D.A. Task Force.

- o Should a hearing be called, it will take place within thirty (30) working days from the date of notice.
- o Following the hearing, the A.D.A. Task Force will provide a written response within ten (10) working days following the hearing.
- If the response of the ADA Coordinator (or designee) or of the hearing does not resolve the concerns of the petitioner, an appeal may be filed with the Superintendent/President who shall respond to the petition within ten (10) working days.
- Should the Superintendent/President's response not satisfy the petitioner, the Board of Trustees shall be the last level of appeal. The decision of the Board of Trustees shall be final.

*ATTACHMENT A*

**TITLE V - Education Code (California Community Colleges)  
Article 3. District Compliance and Enforcement**

**59334 District Investigation**

Upon receiving a complaint that is properly filed in accordance with Section 59328, the District will commence an impartial fact-finding investigation of that complaint and notify the complainant and Chancellor that it is doing so. The results of the investigation shall be set forth in a written report which shall include at least all of the following:

- (a) a description of the circumstances giving rise to the complaint
- (b) a summary of the testimony provided by each witness, including the complainant and any viable witnesses identified by the complainant in the complaint
- (c) an analysis of any relevant data or other evidence collected during the course of the investigation;
- (d) a specific finding as to whether there is probable cause to believe that discrimination occurred with respect to each allegation in the complaint; and
- (e) any other information deemed appropriate by the District.

**59336. Administrative Determination**

Within ninety (90) days of receiving a complaint, the district shall complete its investigation and forward a copy of its investigative report pursuant to section 59334 to the Chancellor, a copy or summary of the report to complainant, and written notice setting forth all of the following to both the complainant and the Chancellor:

- (a) the determination of the chief executive officer or his/her designee as to whether there is probable cause to believe discrimination occurred with respect to each allegation in the complaint:
  - (b) a description of actions taken, if any, to prevent similar problems from occurring in the future;
  - (c) the proposed resolution of the complaint, and

(c) the complainant's right to appeal to the district governing board and the Chancellor pursuant to Sections 59338 and 59339.

**59338. Final District Decision Appeals**

(a) If the complainant is not satisfied with the results of the administrative rendered pursuant to Section 59336, the complainant may, submit a written appeal to the district governing board within fifteen (15) days from the date of the administrative determination. The governing board shall review the original complaint, the investigative report, the administrative determination, and the appeal, and issue a final district decision in the matter within forty-five (45) days of receiving the appeal.

(b) A copy of the final district decision rendered by the governing board that includes complainant's rights to appeal the district's decision to the Chancellor pursuant to section 59339 shall be forwarded to the complainant and to the Chancellor.

(c) If the governing board does not act within forty-five (45) days the administrative determination shall be deemed approved and shall become the final distinct decision in the matter. The district shall notify the complainant and the Chancellor that the board took no action and the administrative determination is deemed approved pursuant to this section. The complainant shall also be notified of his or her right to appeal the district's decision to the Chancellor pursuant to section 59339.

**59340. Forward to Chancellor**

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

(a) A copy of the final District decision rendered by the Board of Trustees or a statement indicating the date on which the administrative determination became final pursuant to Section 59338(a).

(b) A copy of the notice to the complainant required pursuant to Section 59338(a); and

(c) Such other information as the Chancellor may require

#### **59342. Failure to Comply**

(a) If a district, for reasons beyond its control, is unable to comply with the 90-day or 150 day deadline specified in Sections 59336 or 59340, the district may file a written request that the Chancellor grant an extension of the deadline. The request shall be submitted no later than ten (10) days prior to the expiration of the deadline established pursuant to Sections 59336 or 59340 and shall set forth the reasons for the request and the date by which the district expects to be able to submit the required materials.

(b) A copy of the request for an extension shall be sent to the complainant, who shall be notified that he or she may file written objections with the Chancellor within five (5) days of receipt.

(c) The Chancellor may grant the request unless delay would be prejudicial to the complainant. If the Chancellor grants an extension of the 90-day deadline, the 150-day deadline is automatically extended by an equal amount.

(d) If a district fails to comply with the requirements of Sections 59336 or 59340 by the required deadline, including any extension granted pursuant to this section, the Chancellor on may proceed to review the case as provided in Article 4 (commencing with Section 59350) of this Subchapter based on the original complaint and any other relevant information then available.

#### **Article 4. Chancellor's Procedure to Effect Compliance**

#### **59350. Review for Reasonable Cause**

(a) The Chancellor shall review the materials submitted by the district pursuant to Sections 59336 and 59340, together with the complainant's appeal, and determine

whether there is reasonable cause to believe the district has violated the requirements of this subchapter.

(b) Failure by the complainant to file an appeal pursuant to Section 59338 shall not preclude the Chancellor from finding reasonable cause to believe the district has violated the requirements of this subchapter.

(c) If the Chancellor finds there is no reasonable cause to believe a violation has occurred, the Chancellor shall immediately notify both the complainant and the district.

#### **59352. Investigation**

If the Chancellor finds there is reasonable cause to believe a violation has occurred, the Chancellor shall investigate to determine whether there is probable cause to believe a violation has occurred.

#### **59354. Informal Resolution**

During the investigation, the Chancellor shall seek to informally resolve the alleged violation. Such resolution shall be set forth in a written conciliation agreement. A copy of the written agreement shall be sent to the complainant.

#### **59356. Formal Resolution**

Within 120 days of initiating the investigation, the Chancellor shall take one of the following actions:

(a) Notify the district and the complainant that there is probable cause to believe the district has violated the provisions of this subchapter. The Chancellor shall allow the district to acquiesce in this finding prior to filing an accusation against the district.

(b) Notify the district and the complainant that there is no probable cause to believe the district has violated the provisions of this subchapter.

#### **59358. Hearing**

If the Chancellor finds the district has violated the provisions of this subchapter, and if the district does not acquiesce in that finding, the Chancellor shall initiate the hearing process pursuant to Chapter 5 (commencing with Section 11500) of part1, Division 3, Title 2 of the Government Code, to determine whether the violation did occur.

#### **59360. Enforcement**

(a) Upon a determination that a district has violated the provisions of this subchapter, the Chancellor shall notify the district of the action he or she will take to effect compliance. The Chancellor may use any means authorized by law to effect compliance, including:

- (1) Withhold all or part of the district's state support, including state general apportionment and/or growth funding;
- (2) Make eligibility for future state support, including state general apportionment and/or growth funding, and/or eligibility for grants or contracts administered by the Chancellor's Office conditional on compliance with specified conditions.
- (3) Proceed in a court of competent jurisdiction for an appropriate order compelling compliance.

(b) No decision to curtail state funding to a district pursuant to this section shall be made until the

Chancellor has determined that compliance cannot be secured by voluntary means.

#### **59362. Judicial Review**

A decision by the Chancellor pursuant to Section 59360 is subject to judicial review by the district, as provided by Section 4 1094.5 of the Code of Civil Procedure.

**\*\*Note - "Chancellor" means Chancellor of California Community Colleges. \*\***

ATTACHMENT B

Unlawful Discrimination Complaint Form



Name: \_\_\_\_\_  
Last First

Address: \_\_\_\_\_  
Street or P.O. Box City State Zip

Phone: Day ( ) Evening ( )

I Am A:  Student  Employee  Other: \_\_\_\_\_

I Wish To Complain Against: \_\_\_\_\_

District: Mt. San Jacinto Community College District College: Mt. San Jacinto Community College

Date of Most Recent Incident of Alleged Discrimination: \_\_\_\_\_  
(Non-employment complaints must be filed within one year of the date of the alleged unlawful discrimination. Employment complaints must be filed within six months of the date of the alleged unlawful discrimination.)

I Allege Discrimination Based on the Following Category Protected under Title 5 (you must select at least one):

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

**Clearly state your complaint.** Describe each incident of alleged discrimination separately. For each incident provide the following information: **1)** date(s) the discriminatory action occurred; **2)** name of individual(s) who discriminated; **3)** what happened; **4)** witnesses (if any); and **5)** why you believe the discrimination was because of your religion, age, race, sex or whatever basis you indicated above. \*\*If applicable, explain why you believe you were retaliated against for filing a complaint or asserting your right to be free from discrimination on any of the above grounds. (Attach additional pages as necessary.)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

What would you like the District to do as a result of your complaint -- what remedy are you seeking?

\_\_\_\_\_  
\_\_\_\_\_

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

---

*Signature of Complainant*

*Date*

Send **Original** to the District, or:

**Mt. San Jacinto Community College**  
1499 N. State Street (Attn: HR)  
San Jacinto, CA 92592

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

## ATTACHMENT C

### *NOTIFICATIONS*

Notify any of the following individuals if you have a complaint:

1. Vice President of Human Resources, 951-487-3158
2. Director of Judicial Affairs, 951-663-2401
3. Title IX Coordinator, 951-374-0539
4. Superintendent/ President, 951-487-3002

## ATTACHMENT D

U.S. DEPARTMENT OF EDUCATION

### Office for Civil Rights

### Sexual Harassment Guidance

*Published at 62 Federal Register 12034, March 13, 1997*

### First Amendment

In cases of alleged harassment, the protections of the First Amendment must be considered if issues of speech or expression are involved. Free speech rights apply in the classroom (e.g., classroom lectures and discussions) and in all other education programs and activities of public schools (e.g., public meetings and speakers on campus; campus debates, school plays and other cultural events; and student newspapers, journals and other publications). In addition, First Amendment rights apply to the speech of students and teachers.

Title IX is intended to protect students from sex discrimination, not to regulate the content of speech. OCR recognizes that the offensiveness of particular expression as perceived by some students, standing alone, is not a legally sufficient basis to establish a sexually hostile environment under Title IX.

Moreover, in regulating the conduct of its students and its faculty to prevent or redress discrimination prohibited by Title IX (e.g., in responding to harassment that is sufficiently severe, persistent, or pervasive as to create a hostile environment), a school must formulate, interpret, and apply its rules so as to protect academic freedom and free speech rights. For instance, while the First Amendment may prohibit a school from restricting the right of students to express opinions about one sex that may be considered derogatory, the school can take steps to denounce those opinions and ensure that competing views are heard. The age of the students involved and the location or forum may affect how the school can respond consistent with the First Amendment. As an example of the application of free speech rights to allegations of sexual harassment, consider the following:

Example 1: In a college level creative writing class, a professor's required reading list includes excerpts from literary classics that contain descriptions of explicit sexual conduct, including scenes that depict women in submissive and demeaning roles. The professor also assigns students to write their own materials, which are read in class. Some of the student essays contain sexually derogatory themes about women. Several female students complain to the Dean of Students that the materials and related classroom discussion have created a sexually hostile environment for women in the class. What must the school do in response?

*Answer:* Academic discourse in this example is protected by the First Amendment even if it is offensive to individuals. Thus, Title IX would not require the school to discipline the professor or to censor the reading list or related class discussion.

Example 2: A group of male students repeatedly targets a female student for harassment during the bus ride home from school, including making explicit sexual comments about her body, passing around drawings that depict her engaging in sexual conduct, and, on several occasions, attempting to follow her home off the bus. The female student and her parents complain to the principal that the male students' conduct has created a hostile environment for girls on the bus and that they fear for their daughter's safety. What must the school do in response?

*Answer:* Threatening and intimidating actions targeted at a particular student or group of students, even though they contain elements of speech, are not protected by the First Amendment. The school must take reasonable and appropriate actions against the students, including disciplinary action if necessary, to remedy the hostile environment and prevent future harassment.

## AP 3410 Responding to Discrimination and Harassment

### Legal

Education Code Sections 87100 et seq.;

Labor Code Section 1197.5

ACCJC Accreditation Eligibility Requirement 20 and ACCJC Accreditation Standard Catalog Requirements

Education Code Sections 66250 et seq.; 200 et seq.; 66281.5; and 72010 et seq.;

Government Code 11135 et seq.; and 12940 et seq.;

Penal Code 422.55 et seq.;

Title 2 Sections 10500 et seq.

Title 5 Sections 59300 et seq.;

Title 5 Section 53000 et seq.;

These are the written policies and procedures for filing and processing complaints of nondiscrimination and sexual harassment at Mt. San Jacinto Community College District. See Board Policies 3410 and 3430. These policies and procedures incorporate the legal principles contained in nondiscrimination provisions of the California Code of Regulations, Title 5, sections 59300 et seq. as well as other state and federal substantive and procedural requirements.

### General Harassment:

Harassment based on 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 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.

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.

- **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 his or 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.

## Employment

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, immigration status, or military and veteran status.

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.

It is unlawful to discriminate against a person who serves in an unpaid internship or any other limited-duration program to provide unpaid work experience in the selection, termination, training, or other terms and treatment of that person on any basis of their

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, immigration status, or military and veteran status.

## Education Programs

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/they 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.

All courses, including noncredit classes, shall be conducted without regard to the gender of the student enrolled in 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 staff, including but not limited to counselors, instructors and administrators 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.

A copy of the District's nondiscrimination policy will be displayed in a prominent location in the main administrative building or other areas where notices regarding the institution's rules, regulations, procedures, and standards of conduct are posted.

The nondiscrimination policy was adopted by the Mt. San Jacinto Community College District Governing Board on March 11, 2010, in accordance with the procedures of the Board.

Authority: 20 U.S.C. § 1681 et seq.; Ed. Code, §§ 66270, 66271.1, 66281.5; Gov. Code, §11135-11139.5; Cal. Code Regs., tit. 5, § 59326. Reference: Cal. Code Regs., tit. 5, § 59300 et seq.; 34 C.F.R. § 106.8(b).

### **Nondiscrimination Policy**

The policy of the Mt. San Jacinto Community College District is to provide an educational and employment environment in which no person is unlawfully denied full and equal access to the educational and/or employment environment based on unlawful

discrimination or harassment. The District's prohibitions on unlawful discrimination and sexual harassment are set out in Board Policies 3410 and 3430.

The purpose of this procedure, and Board Policies 3410 and 3430, is to implement provisions of state and federal law which together prohibit discrimination or retaliation against persons or groups, or those associated with them on the basis of an actual or perceived characteristic related to ethnic group identification, national origin, immigration status, religion, age, sex, gender, gender identification, gender expression, military and veteran status, marital status, medical condition, race, color, ancestry, sexual orientation, physical or mental disability or any other characteristic protected under applicable federal or state law. These laws require that protected persons and groups, or those associated with them, shall neither be denied full and equal access to the benefits of, nor be subjected to discrimination under, any program or activity that is administered by, funded directly by, or that receives any financial assistance from, the state Chancellor or Board of Governors of the California Community Colleges, based upon an actual or perceived characteristic listed therein.

### **Responsible District Officer**

The Mt. San Jacinto Community College District has identified the Chief Human Resources Officer to the State Chancellor's Office and to the public as the single District officer responsible for receiving all complaints of unlawful discrimination filed pursuant to Title 5, section 59328, and for coordinating their investigation. Informal charges of unlawful discrimination should be brought to the attention of the responsible district officer, who shall oversee the informal resolution process pursuant to section 59327. The actual investigation of complaints may be assigned to other staff or to outside persons or organizations under contract with the District. Such delegation procedures will be used whenever the officer designated to receive complaints is named in the complaint or is implicated by the allegations in the complaint.[\[1\]](#)

Administrators, faculty members, other District employees, and students shall direct all complaints of nondiscrimination to the responsible District officer.

Employees with supervisory responsibilities who witness or receive reports of sexual harassment are required to immediately report such conduct to the Responsible District Officer.

Authority: Cal. Code Regs., tit. 5, § 59324; 34 C.F.R. § 106.8.

### **Students and Employees Notice, Training, and Education**

The Mt. San Jacinto Community College District's responsible officer shall make arrangements for or provide training to employees and students on the District's nondiscrimination policy and procedures. Faculty members, members of the administrative staff, and members of the support staff will be provided with a copy of the District's written policy on nondiscrimination at the beginning of the semester of the college year after the policy is adopted.

All District employees will receive training and a copy of the nondiscrimination policies and procedures during the first year of their employment. All supervisors and nonsupervisory employees will undergo mandatory sexual harassment training at least every two years and within six months of employment/assuming a supervisory position. 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.

A training program or informational services will be made available to all students at least once annually. The student training or informational services should include an explanation of the policy, how it works, and how to file a complaint. In addition, a copy of the District's written policy on nondiscrimination, as it pertains to students, will be provided as part of any orientation program conducted for new students at the beginning of each semester, or summer session, as applicable.

Authority: Ed. Code, § 66281.5; Cal. Code Regs., tit. 5, §§ 59324 and 59326.

Reference: Cal. Code Regs., tit. 5, § 59300 et seq.; 34 C.F.R. § 106.8(b); Gov't Code § 12950.1.

### **Retaliation**

It is unlawful for anyone to retaliate against someone who files a nondiscrimination complaint, who refers a matter for investigation or complaint, who participates in an investigation of a complaint, who represents or serves as an advocate for an alleged victim or alleged offender, or who otherwise furthers the principles of this nondiscrimination policy.

Authority: 20 U.S.C. § 1681 et seq.; 34 C.F.R. § 106; Cal. Code Regs., tit. 5, § 59300 et seq.; Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, Title IX, Office for Civil Rights, January 19, 2001.

### **Informal/Formal Complaint Procedure<sup>[2]</sup>**

a) When charges of unlawful discrimination are brought to the attention of the District's responsible officer, the District may undertake efforts to informally resolve the charge with the complainant's consent. The District must advise complainants that they need not participate in informal resolution.

(b) Efforts at informal resolution pursuant to subdivision (a) may, but need not include an investigation. The responsible district officer determines when an investigation is warranted.

(c) Efforts at informal resolution may continue after a written or verbal complaint is made. The investigation must be completed unless the matter is informally resolved and the complainant dismisses the complaint. The District may proceed with an investigation notwithstanding an informal resolution.

(d) Any efforts at informal resolution after the filing of a written or verbal complaint is made shall be completed within the (ninety) 90-days.

Allegations of nondiscrimination made by parties who have not personally suffered unlawful discrimination (or an individual with legal authority on behalf of a student or employee), and thus are not complainants under the description set out in Title 5, section 59328(a), are not covered by Title 5. However, the District may process and investigate such allegations under the above informal or formal complaint process (as required by federal regulations governing OCR). When such a complaint is processed under the formal process, the complainant's appeal rights shall be up to and including the first-level appeal to the Governing Board. All complainants shall be advised of their right to file complaints with the OCR (for non-employment matters) and with EEOC or DFEH (for employment matters).

The District will provide for representation where required by law and may allow for representation for the respondent and complainant in other circumstances on a case-by-case basis.

Authority: Cal. Code Regs., tit. 5, §§ 59327, 59328, 59334, 59336, and 59339; NLRB v. Weingarten, Inc. (1975) 420 U.S. 251.

### **Filing of Formal Written Complaint**

(a) Complaints of unlawful discrimination may be written or verbal, and be made by a student, an employee, a parent of a minor, or an individual with legal authority on behalf of a student or employee, who alleges that the student or employee has suffered unlawful discrimination.

(b) Any complaints to a responsible employee under California law or Title IX of the Education Amendments Act of 1972, 20. U.S.C. § § 1681-1688, shall be forwarded to the responsible district officer or designee.

(c) Written complaints shall be provided to the responsible district officer or designee. The complainant may be requested, but shall not be required, to submit the complaint on a form prescribed by the state Chancellor of the District.

(d) The complainant may be requested, but shall not be required, to submit the complaint on a form prescribed by the Chancellor or the District. See Appendix A to this administrative procedure, which also is available at:

<https://www.msjc.edu/titleix/documents/UnlawfulDiscriminationFormFillable.pdf>  
(above link valid as an enactment of this Administrative Procedure)

(e) Verbal complaints shall be lodged with the responsible district officer or designee. The responsible district officer or designee shall record the verbal complaint in writing.

The District shall take appropriate steps to ensure the writing accurately reflects the facts alleged by the complainant.

(f) In any complaint not involving employment,

1. The complaint shall be filed within one year of the date of the alleged unlawful discrimination or within one year of the date on which the complainant knew or should have known of the facts underlying the allegation of unlawful discrimination;
2. The District shall advise student complainants that they may file their non employment-based complaint with the Office for Civil Rights of the U.S. Department of Education (OCR) where such complaint is within the agency's jurisdiction.

(g) In any complaint alleging discrimination in employment:

1. The complaint shall be filed within 180 days of the date the alleged unlawful discrimination occurred, except that this period should be extended by no more than 90 days following the expiration of the 180 days if the complainant first obtained knowledge of the facts of the alleged violation after the expiration of the 180 days;
2. The District shall advise complainants that they may file the complaint with the U.S. Equal Employment Opportunity Commission (EEOC) and/or the Department of Fair Employment and Housing (DFEH) where the complaint is within the jurisdiction of those agencies.

Once a complaint is filed, the individual(s) accused of engaging in prohibited discriminatory conduct should be advised of that filing and the general nature of the complaint. This should occur as soon as possible and appropriate under the circumstances. The District will also advise the accused that an assessment of the accuracy of the allegations has not yet been made, that the complaint will be investigated, that the accused will be provided an opportunity to present his/her side of the matter, and that any conduct that could be viewed as retaliatory against the complainant or any witnesses must be avoided. The accused individuals(s) do not have a right to a copy of the actual complaint.

Authority: Cal. Code Regs., tit. 5, § 59311; and §59328.

### **Defective Complaint**

When the District receives a complaint which it finds does not meet the requirements of Title 5 section 59328 the District shall immediately notify the complainant and the state Chancellor that the complaint does not meet the requirements of Title 5 section 59328 and shall specify in what requirement the complaint is defective.

Authority: Cal. Code Regs., tit. 5, § 59328; and §59332.

### **Complaints Filed with the Chancellor**

Upon receiving a complaint filed pursuant to Title 5 section 59328, the Chancellor will immediately forward a copy of the complaint to the District's designated responsible officer who shall respond pursuant to Title 5 section 59332 or initiate the investigation required pursuant to Title 5 section 59334.

### **Confidentiality of the Process**

Investigative processes can best be conducted within a confidential climate, and the District does not reveal information about such matters except as necessary to fulfill its legal obligations. However, potential complainants are sometimes reluctant to pursue a complaint if their names will be revealed.

The inability to reveal the name of a complainant or facts that are likely to reveal the identity of the complainant can severely limit the ability of the District to respond. Complainants must also recognize that persons who are accused of wrongdoing have a right to present their side of the matter, and this right may be jeopardized if the District is prohibited from revealing the name of the complainant or facts that are likely to disclose the identity of the complainant.

If a complainant insists that his or her name not be revealed, the responsible officer should take all reasonable steps to investigate and respond to the complaint consistent with the complainant's request as long as doing so does not jeopardize the rights of other students or employees.

It is also important that complainants and witnesses understand the possibility that they may be charged with allegations of defamation if they circulate the charges outside of the District's process. In general, persons who are participating in a District investigative or disciplinary process that is related to a charge of discrimination are protected from tort claims such as defamation. However, persons who make allegations outside of these processes or who discuss their claims with persons outside of the process may expose themselves to tort charges. Complainants, witnesses, and those accused of discrimination will all be asked to sign a confidentiality acknowledgement statement.

Where an investigation reveals the need for disciplinary action, the complainant may wish to have information about what disciplinary actions the District took. However, the privacy rights of the persons involved often prevent the District from providing such information. In student disciplinary actions for sexual assault/physical abuse charges, Education Code, section 76234 provides that the victim shall be informed of the disciplinary action, but that the victim must keep the information confidential. Disciplinary actions taken against employees are generally considered confidential.<sup>[3]</sup>

Authority: Cal. Const. Art. I, § 1; Civil Code § 47; Ed. Code, §§ 76234 and 87740; *Silberg v. Anderson* (1990) 50 Cal.3d. 205; Revised *Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, Title IX*, Office for Civil Rights, January 19, 2001.

### **District Investigation**

Upon receiving a complaint that is properly filed in accordance with section 59328, the District shall notify the complainant that the district will commence an impartial fact-finding investigation of the allegations contained in the complaint .

The results of the investigation shall be set forth in a written report that shall include at least all the following:

1. a description of the circumstances giving rise to the complaint;
2. a summary of the testimony provided by each witness, including the complainant and any viable witnesses identified by the complainant in the complaint;
3. an analysis of any relevant data or other evidence collected during the course of the investigation;
4. a specific finding as to whether each factual allegation in the complaint occurred based on the preponderance of the evidence standard; and
5. any other information deemed appropriate by the District.

During the course of the investigation, involved persons (including complainant(s), accused person(s), witness(es)) shall be interviewed and relevant documents collected and reviewed, as applicable. All interviewed persons shall be advised of the prohibition against retaliation.

Authority: Cal. Code Regs., tit. 5, § 59334.

### **Administrative Determination**

In any case NOT involving employment discrimination, within ninety (90) days of receiving a nondiscrimination complaint filed under Title 5, sections 59300 et seq., the responsible District officer shall complete the investigation and forward a copy or summary of the report and written notice to the complainant setting forth all the following:

1. The chief executive officer's or their designee's determination as to whether discrimination occurred with respect to each allegation in the complaint based on the preponderance of the evidence standard;
2. In the event of a discrimination allegation is substantiated, a description of actions taken, if any, to prevent similar acts of unlawful discrimination from occurring in the future;[4]
3. The proposed resolution of the complaint;
4. The complainant's right to appeal to the District governing board and the State Chancellor pursuant to Title 5 sections 59338 and 59339; and
5. In matters involving student sexual misconduct, the respondent's right to appeal to the District's governing board.

In any case involving employment discrimination, within ninety (90) days of a complaint, the District shall complete its investigation and forward a copy or summary of the investigation report (see District Investigation section above (Title 5 section 59334)) and written notice) to the complainant setting forth all the following to the complainant:

1. The chief executive officer's or their designee's determination as to whether discrimination occurred with respect to each allegation in the complaint based on the preponderance of the evidence standard
2. If a discrimination allegation is substantiated, a description of actions taken, if any, to prevent similar acts of unlawful discrimination from occurring in the future;
3. The proposed resolution of the complaint; and
4. The complainant's right to appeal to the District governing board and to file a complaint with Department of Fair Employment and Housing.

In any case involving unlawful discrimination, when the District provides the complainant with any information pursuant to this section, the District shall also provide to the respondent the following:

1. The chief executive officer's or their designee's determination as to whether unlawful discrimination occurred with respect to each allegation in the complaint based on the preponderance of the evidence standard;
2. The proposed resolution of the complaint, including any disciplinary action against the respondent; and
3. In matters involving misconduct governed by section 59337, subdivision (b), the respondent's right to appeal to the District's governing board any disciplinary sanction imposed upon the respondent.

The Mt. San Jacinto Community College District recognizes the importance of and is therefore committed to completing investigations and resolving complaints as quickly as possible, consistent with the requirements for a thorough investigation.

Authority: Cal. Code Regs., tit. 5, § 59336.

### **Discipline and Corrective Action**

If unlawful harassment, discrimination and/or retaliation occurred in violation of Board Policies 3410 and 3430 and this 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. If discipline is imposed, the nature of the discipline will not be communicated to the complainant.

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

The 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 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.

*See Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, Title IX, Office for Civil Rights, January 19, 2001, at p. 16.*

#### Title IX and Student Discipline Procedures

(a) In cases of student sexual misconduct subject to Title IX of the Education Amendments Act of 1972, 20 U.S.C. §§ 1681-1688, the District will comply with the federal Department of Education's Title IX regulations, 34 C.F.R. Part 106. See AP 3540, AP 5520.

(b) In cases of student sexual misconduct that are not subject to Title IX (e.g. where California state law provides broader interpretation of sexual misconduct), when an accused student is subject to severe disciplinary sanctions, and the credibility of witnesses was central to the investigative findings, the District's student discipline procedures (See AP 3540, AP 5520) must provide the following:

1. An opportunity for the accused student to cross-examine witnesses indirectly at a live hearing, either in person or by video conference; and
2. A live hearing conducted by a neutral decision-maker other than the investigator.

(c) For purposes of this section, "indirect" cross-examination shall be conducted as follows:

1. Any question to the witness shall be asked by a neutral party appointed by the District for the sole purpose of asking questions. The neutral party shall not be the accused student, the accused student's representative, or a member of the hearing panel; and
2. The accused student may submit written questions before and during the cross-examination, including any follow-up questions. The neutral party asking questions shall not exclude any questions unless there is an objection to the question by the hearing panel.

(d) Nothing in this section shall prohibit the District from providing a live hearing or neutral decision-maker for other student discipline proceedings, including for other forms of discrimination.

Authority: Cal. CodeRegs., tit. 5, §§ 59337; Sections 66271.1, 66700 and 70901, Education Code.

Reference: Sections 66271.6 and 66271.7, Education Code; Title 20, United States Code, Section 1681; and Title 34, Code of Federal Regulations, Section 106.31 *et seq.*

### **Appeal Rights**

Complainants have appeal rights that they may exercise if they are not satisfied with the results of the District's administrative determination. (In limited circumstances addressed below, respondents also have appeal rights). At the time the administrative determination and summary is mailed to the complainant, the responsible District officer or their designee shall notify the complainant of their appeal rights as follows:

#### *First-Level Appeal: Final District Decision; Appeals to the Local Governing Board*

(a) If the complainant is not satisfied with the results of the administrative determination rendered pursuant to Title 5 section 59336, the complainant may submit a written appeal to the District's governing board within thirty (30) days from the date of the administrative determination. In student sexual misconduct cases subject to section 59337(b), respondents who are not satisfied with the results of the administrative determination also may submit a written appeal to the District's governing board within thirty (30) days from the date of the administrative determination. The governing board shall review the original complaint, the investigative report, the administrative determination, and the appeal and issue a final District decision in the matter within forty-five (45) days after receiving the appeal.

(b) If the governing board does not act within forty-five (45) days, the administrative determination shall be deemed approved on the forty-sixth (46) day and shall become the final District decision . The District shall promptly notify the complainant and the respondent of the board's action, or if the board took no action that the administrative determination is deemed approved.

(c) In any case not involving employment discrimination, the District shall promptly forward to the complainant, and the respondent, a copy of the final District decision rendered by the governing board, if any, and notice of the complainant's right to appeal the District's decision to the state Chancellor pursuant to Title 5, section 59339.

(d) In any case involving employment discrimination, the District shall promptly forward to the complainant a copy of the final District decision rendered by the governing board that includes the complainant's right to file a complaint with the Department of Fair Employment and Housing (DFEH), where the case is within the jurisdiction of that agency.

#### *Second-Level Appeal: Appeal to Chancellor*

(a) In any case not involving employment discrimination, the complainant may file a written appeal with the state Chancellor within thirty (30) days from the date of the District's notice of final decision. Such appeals shall be processed pursuant to the provisions of Title 5 section 59350 et seq. [\[5\]](#) The appeal must include copies of the complaint, the decision of the governing board, and the notice of final decision.

(b) In any case involving employment discrimination, the complainant may, before or after the final District decision is rendered, file a complaint with the Department of Fair Employment and Housing (DFEH).

(c) For any appeal under subdivision (a), the District shall provide all relevant, non-privileged documents upon request of the state Chancellor.

Authority: Cal. Code Regs., tit. 5, §§ 59338 and 59339.

### **Provision of Information to State Chancellor**

(a) Upon request of the state Chancellor, the District shall provide copies of all documents related to a discrimination complaint, including the following:

1. The complaint;
2. Any investigative report, unless subject to the attorney-client privilege;
3. The final District decision rendered by the governing board or a statement indicating the date on which the administrative determination became final pursuant to section 59338 (a) or (d);
4. The notice to the complainant required by section 59338 (a) or (d) [relating to notice of appeal rights];
5. The complainant's appeal of the District's administrative determination pursuant to section 59338(a); and any other non-privileged documents or information the Chancellor requests.

(b) Districts shall provide to the state Chancellor an annual report with the following information:

1. The number of employment and non-employment discrimination complaints and informal charges received in the previous academic year,
2. The number of complaints and informal charges resolved in the previous academic year,

3. The number of complaints of unlawful discrimination received in the previous academic year, and the number of those complaints that were sustained in whole or in part,

4. Any other information requested by the Chancellor.

(c) The District shall retain all records arising from informal discrimination charges and formal discrimination complaints for a period of at least five years after closing of a case.

Authority: Cal. Code Regs., tit. 5, §§ 59338 and 59340.

### **Extensions**

(a) If the District is unable to comply with the 90-day deadlines specified above for informal resolution and formal complaints, the District may extend the time to respond by up to 45 additional days. An extension may be taken only once without permission from the state Chancellor's office, and must be necessary for one of the following reasons:

1. A need to interview a party or witness who has been unavailable;
2. A need to review or analyze additional evidence, new allegations, or new complaints related to the matter; or
3. To prepare and finalize an administrative determination.

(b) The District shall send a written notice to the complainant, and to a respondent who is aware of an investigation, indicating the necessity of an extension, the justification for the extension, and the number of days the deadline will be extended.

(c) Notice of an extension shall be sent no later than 10 days prior to the initial time to respond pursuant to section 59336 (90 days).

(d) Districts may request additional extensions from the state Chancellor after the initial 45-day extension. A copy of the extension request shall be sent to complainant, and to a respondent who is aware of an investigation. The complainant and respondent may each file a written objection with the state chancellor within five (5) days of receipt.

(e) The state Chancellor may grant the extension for good cause, unless delay would be unduly prejudicial to the complainant or investigation.

(f) If the District fails to comply with the requirements of this section or the Administrative Determination section above, the state Chancellor may proceed to review the case as provided in Title 5 section 59350 et seq. based on the original complaint and any other relevant information.

Authority: Cal. Code Regs., tit. 5, § 59342.

## Definitions

Definitions applicable to nondiscrimination policies are as follows:

- "Appeal" means a request by a complainant made in writing to the Mt. San Jacinto Community College District governing board pursuant to Title 5, section 59338, and/or to the State Chancellor's Office pursuant to Title 5, section 59339, to review the administrative determination of the District regarding a complaint of discrimination.
- "Association with a person or group with these actual or perceived characteristics" includes advocacy for or identification with people who have one or more characteristics of a protected category listed under "Unlawful Discrimination Policy" and Title 5, section 59300, participation in a group associated with persons having such characteristics, or use of a facility associated with use by such persons.
- "Complaint" means a written or verbal statement meeting the requirements of Title 5, section 59328 that alleges unlawful discrimination in violation of the nondiscrimination regulations adopted by the Board of Governors of the California Community Colleges, as set forth at Title 5, section 59300 et seq.
- "Days" means calendar days.
- "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 related appearance and behavior whether or not stereotypically associated with the person's assigned sex at birth.
- "Mental disability" includes, but is not limited to, all of the following:
  - (1) Having any mental or psychological disorder or condition, such as mental retardation, organic brain syndrome, emotional or mental illness, or specific learning disabilities, that limits a major life activity. For purposes of this section:
    - (a) "Limits" shall be determined without regard to mitigating measures, such as medications, assistive devices, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.
    - (b) A mental or psychological disorder or condition limits a major life activity if it makes the achievement of the major life activity difficult.
    - (c) "Major life activities" shall be broadly construed and shall include physical, mental, and social activities and working.
  - (2) Any other mental or psychological disorder or condition not described in paragraph (1) that requires special education or related services.
  - (3) Having a record or history of a mental or psychological disorder or condition described in paragraph (1) or (2), which is known to the District.
  - (4) Being regarded or treated by the District as having, or having had, any mental condition that makes achievement of a major life activity difficult.

(5) Being regarded or treated by the District as having, or having had, a mental or psychological disorder or condition that has no present disabling effect, but that may become a mental disability as described in paragraph (1) or (2).

“Mental disability” does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.[\[6\]](#)

- “Physical disability” includes, but is not limited to, all of the following:

(1) Having any physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss that does both of the following:

(a) Affects one or more of the following body systems: neurological, immunological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine.

(b) Limits a major life activity. For purposes of this section:

(i) "Limits" shall be determined without regard to mitigating measures such as medications, assistive devices, prosthetics, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.

(ii) A physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss limits a major life activity if it makes the achievement of the major life activity difficult.

(iii) "Major life activities" shall be broadly construed and includes physical, mental, and social activities and working.

(2) Any other health impairment not described in paragraph (1) that requires special education or related services.

(3) Having a record or history of a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment described in paragraph (1) or (2), which is known to the District.

(4) Being regarded or treated by the District as having, or having had, any physical condition that makes achievement of a major life activity difficult.

(5) Being regarded or treated by the District as having, or having had, a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment that has no present disabling effect but may become a physical disability as described in paragraph (1) or (2).

(6) "Physical disability" does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.[\[7\]](#)

- “District” means the Mt. San Jacinto Community College District or any District program or activity that is funded directly by the state or receives financial assistance from the state. This includes any other organization associated with the District or its college(s) that receives state funding or financial assistance

through the District. This also includes any person acting as an agent of the District.

- “Responsible District Officer” means the officer identified by the District to the State Chancellor’s Office as the person responsible for receiving complaints filed pursuant to Title 5, section 59328, and coordinating their investigation.
- “Sex” includes, but is not limited to, pregnancy, childbirth, or medical conditions related to pregnancy or childbirth. “Sex” also includes, but it not limited to, a person’s gender.
- “Sexual harassment” (as defined by Education Code § 212.5) means 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, under any of the following conditions:
  - (a) Submission to the conduct is explicitly or implicitly made a term or a condition of an individual’s employment, academic status, or progress.
  - (b) Submission to, or rejection of, the conduct by the individual is used as the basis of employment or academic decisions affecting the individual.
  - (c) 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.
  - (d) 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.
- Examples of sexual harassment include but are not limited to the following:
  - 1) Making unsolicited or unwelcome written, verbal, physical, and/or visual contacts with sexual overtones. Examples of possible sexual harassment that appear in a written form include but are not limited to: suggestive or obscene letters, notes, invitations, and e-mails. Examples of possible verbal sexual harassment include, but are not limited to: leering, gestures, display of sexually aggressive objects or pictures, cartoons, or posters. Examples of possible physical sexual harassment include, but are not limited to inappropriate or offensive touching or interfering with free movement such as kissing, grabbing, or blocking another person
  - 2) Continuing to express sexual interest after being informed that the interest is unwelcome.
  - 3) Making reprisals, threats of reprisal, or implied threats of reprisal following a rebuff of harassing behavior. The following are examples of conduct in an academic environment that might be found to be sexual harassment: threatening to withhold, or actually withholding, grades earned or deserved; suggesting a poor performance evaluation will be prepared; or suggesting a scholarship recommendation or college application will be denied.
  - 4) Engaging in explicit or implicit coercive sexual behavior within the work environment which is used to control, influence, or affect the employee’s career, salary, and/or work environment.

- 5) Engaging in explicit or implicit coercive sexual behavior within the educational environment that is used to control, influence, or affect the educational opportunities, grades, and/or learning environment of a student.
- 6) Offering favors or educational or employment benefits, such as grades or promotions, favorable performance evaluations, favorable assignments, favorable duties or shifts, recommendations, reclassifications, etc., in exchange for sexual favors.
- 7) Awarding educational or employment benefits, such as grades or duties or shifts, recommendations, etc., to any student or employee with whom the decision maker has a sexual relationship and denying such benefits to other students or employees.

- “Sexual orientation” means heterosexuality, homosexuality, or bisexuality.

Authority: Gov. Code, § 12926; Education Code, § 212.5; Cal. Code Regs., tit. 5, § 59311; Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, Title IX, Office for Civil Rights, January 19, 2001.

### **Academic Freedom**

The Mt. San Jacinto Community College District Governing Board reaffirms its commitment to academic freedom. The District recognizes that its discrimination policy is intended to protect students and employees from nondiscrimination, not to regulate the content of speech, however, academic freedom does not allow any form of nondiscrimination. It is recognized that an essential function of education is a probing of opinions and an exploration of ideas that may cause some students discomfort. Therefore, in order to establish a claim, the discrimination must be sufficiently severe, persistent, or pervasive to disrupt or sufficiently threaten to disrupt a student’s ability to participate in or benefit from the education program or to create a hostile or abusive educational environment. It is further recognized that academic freedom insures the faculty’s right to teach and the student’s right to learn. Finally, nothing in these policies and procedures shall be interpreted to prohibit bona fide academic requirements for a specific community college program, course or activity.

When investigating nondiscrimination complaints containing issues of academic freedom Mt. San Jacinto Community College District will consult with a faculty member appointed by the Academic Senate with respect to contemporary practices and standards for course content and delivery.

Reference: Cohen v. San Bernardino Valley College (1995) 883 F.Supp. 1407, 1412-1414, affd. in part and revd. in part on other grounds, (1996) 92 F.3d 968; Cal. Code Regs., tit. 5, § 59302. U.S. Department of Education, Office for Civil Rights, Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d), Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), the Americans with Disabilities Act of 1990 (42 U.S.C. § 12100 et seq.) and the Age Discrimination Act (42 U.S.C. § 6101).

### **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. An employee in such a relationship should remove himself or herself from decisions affecting the other person in the relationship. Decisions affecting the other person include grading, evaluating, supervising, or otherwise influencing that person's education, employment, or participation in any other District activity. 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 may seek to transfer any involved employee(s) 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. As in any case of sexual harassment, if conduct is determined to be unwelcome, then the District may pursue discipline and/or other corrective actions.

### **Record Retention**

Nondiscrimination records that are part of an employee's employment records may be classified as Class-1 Permanent records and retained indefinitely or microfilmed in accordance with Title 5, California Code of Regulations, section 59022.

Nondiscrimination records of a student that are deemed worthy of preservation but not classified as Class-1 Permanent may be classified as Class-2 Optional records or as Class-3 Disposable records, to be retained for a period of three years.

Authority: Cal. Code Regs., tit. 5, § 59020.

---

## AP 3411 Civility and Mutual Respect

Employees of the Mt. San Jacinto Community College District are expected to treat others with civility and respect:

A. Unacceptable behaviors.

Including but not limited to demeaning, intimidating, threatening, or physically or emotionally abusive behaviors; or presenting false information or lying that hamper the ability to learn or work in the college environment.

B. Retaliation. Retaliation for reporting violations of this policy, for seeking to have prohibited conduct corrected, or for participating in an investigation is prohibited.

C. Violation. Any District employee who has violated this procedure is subject to disciplinary action in accordance with established disciplinary procedures. (The provisions of this administrative procedure shall be in accordance with collective bargaining agreements.)

D. Visitors. Visitors, partners affiliated with the College, vendors, and families of students, staff, and faculty are expected to comply with the provisions of this procedure. Noncompliant behavior may lead to removal from district property or other appropriate measures.

# AP 7348 Accommodations

## Legal

29 U.S. Code Section 207(r)

29 Code of Federal Regulations 1605.1 et seq.

42 U.S. Code Section 12101 et seq., and 2000e et seq.

Government Code Sections 12926, 12940, and 12945

Labor Code Sections 230 and 1030 et seq.

Title 2 Sections 11040 et seq., 11050 et seq., and 11060 et seq.

Absent undue hardship or direct threats to the health and safety of employee(s), the District provides employment-related reasonable accommodations to:

- qualified individuals with disabilities, both applicants and employees, to enable them to perform essential job functions
- employees with conditions related to pregnancy, childbirth, or a related medical condition, if she so requests, and with the advice of her health care provider;
- employee victims of domestic violence, sexual assault, or stalking to promote the safety of the employee victim while at work; and
- employees who request reasonable accommodation to address a conflict between religious belief or observance and any employment requirement.

## **For Disabilities:**

The District has an affirmative duty to provide reasonable accommodations to applicants or employees with disabilities unless the timely, good faith interactive process reveals that there is no reasonable accommodation that will allow the applicant or employee to perform essential job functions without causing the agency undue hardship or without presenting a direct threat to the health and safety of himself/herself or others.

## **For Pregnancy and Related Medical Conditions:**

The District must provide an interactive process to assess reasonable accommodations, in addition to leave rights, to employees disabled by pregnancy and related medical conditions.

## **For Victims of Domestic Violence, Sexual Assault, or Stalking**

Effective January 1, 2014, the District also has an affirmative duty to provide reasonable accommodations to employee-victims of domestic violence, sexual assault, or stalking, that would protect the safety of the employee-victim while at work. As is the case with

disability-related accommodations, the law requires a timely, good faith interactive process. The goal is to identify safety-related accommodations that do not cause undue hardship and that do not compromise the safety and health of all employees. Like the interactive process for disabilities, the agency has the duty to restart the interactive process if the employee requests new accommodation(s) due to changed circumstances.

### **For Religious Belief or Observance:**

Unlike the other categories identified above, there is no legal requirement that the employer must use an interactive process to analyze potential reasonable accommodations of an employee's religious beliefs or observance, including religious dress or grooming practices. Accommodation for religious belief is included here because the law does require an employer to provide a reasonable accommodation unless the agency can prove an undue hardship. In addition, the employer is required to prove that it has explored any available reasonable alternative means of accommodating the religious belief or observance. Though an interactive process is not legally mandated for religious accommodation, an interactive process meeting suggested as good practice and is an effective way for an employer to prove that it explores any available reasonable alternative means of accommodating the religious belief or observance

- Potential Accommodations for Religious Creed, Religious Dress Practice, or Religious Grooming Practice

"Religious creed," "religion," "religious observance," "religious belief," and "creed" include all aspects of religious belief, observance, and practice, including religious dress and grooming practices. "Religious dress practice" is construed broadly to include the wearing or carrying of religious clothing, head or face coverings, jewelry, artifacts, and any other item that is part of the observance by an individual of his/her religious creed. "Religious grooming practice" is construed broadly to include all forms of head, facial, and body hair that are part of the observance by an individual of his/her religious creed.

- Disability Accommodation
- Supporting Documentation or Certification
- Reasonable Medical Documentation of Disability

The District is entitled to request reasonable documentation confirming the existence of a disability, the need for a reasonable accommodation, and the functional limitations or work restrictions that apply to the employee's ability to perform the essential functions of the job. If an employee or applicant provides documentation that does not confirm the existence of a disability, the need for a reasonable accommodation, or his/her functional limitations in performing essential job functions, then the District should explain why the

documentation is insufficient and allow the applicant or employee to provide a timely supplement.

- Interactive Communication or Interactive Process

Employers must be able to prove they acted with good faith during the interactive process. The District should create and maintain written documentation of its interactive process communications, including: letters to medical providers; letters to the employee to recap interactive process meetings; and notes to file regarding any analyses or consultations with experts as to potential accommodations. The documentation should be detailed and include: that the employee had the option to be represented and whether the representative attended the meetings; that the employer was flexible in scheduling the time and location of the meetings; whether the meeting was recorded; the accommodations that were suggested by the employer and the employee; the responses each party had to the suggested accommodations; and whether the interactive process meeting resulted in any agreements.

- Potential Accommodations for Applicants or Employees with Disabilities
- Potential Accommodations for Employees Affected by Pregnancy and Related Medical Conditions
- Determination Regarding Accommodation
- Certification of Victim Status

The District may require a victim of domestic violence, sexual assault, or stalking and who requests an accommodation to provide for his/her safety at work, to provide a written statement regarding the need for the accommodation, and a certification of his/her status as a victim of domestic violence, sexual assault, or stalking. In addition, the district may request recertification of the documentation every six months. If circumstances change and the employee needs a new accommodation, the employer must restart the certification and interactive process.

**Lactation Accommodation:**

An overtime-eligible employee who wishes to express breast milk for her infant child during her scheduled work hours will receive additional unpaid time beyond the 15-minute compensated rest period. Employees desiring to take a lactation break must notify a supervisor prior to taking such a break. Breaks may be reasonably delayed if they would seriously disrupt operations. Once a lactation break has been approved, the break should not be interrupted except for an emergency or exigent circumstance.

The District will make reasonable efforts to accommodate employees by providing an appropriate location to express milk in private. The District will attempt to find a location in close proximity to the employee's work area, and the location will be other than a

bathroom. Employees occupying such private areas shall either secure the door or otherwise make it clear to others through signage that the area is occupied and should not be disturbed. All other employees should avoid interrupting an employee during an authorized break under this section, except to announce an emergency or other urgent circumstance.

Any employee storing expressed milk in any authorized refrigerated area within the work area shall clearly label it as such. No expressed milk shall be stored at the work area beyond the employee's workday.

## **Appendix B.**

### **District Mission, Vision, and Values**

## Appendix B

### Mt. San Jacinto Community College District Mission Statement

The Mt. San Jacinto Community College District offers quality accessible, equitable and innovative educational programs and services to students aspiring to achieve their academic, career and personal development goals.

We provide students a safe environment in which to pursue basic skills, career and general education pathways. Our programs lead to transfer, associate degrees and certificates which meet workforce development needs in our diverse communities.

Our commitment to learning and achievement empowers students to enrich our communities and participate meaningfully in today's complex world.

#### **Vision Statement**

Transforming Learners. Transforming Communities. Transforming Lives.

#### **Values Statement**

We are students, employees and a community. We believe that the act of teaching and learning is vital to a thriving community that enriches, and at times, saves lives. We commit to opportunities that inspire the following values in ourselves:

**Excellence** – We challenge students with high standards for learning and critical thinking, which we model with action.

**Collaborations** – We believe that the best results can be achieved through effective communication between employees, students, industry and the communities we serve.

**Relationship** – We nurture a caring community build on positive interactions and genuine concern for the welfare of others.

**Innovations** – We cultivate a creative environment that promotes the development of new ideas for continuous quality improvement.

**Relevance** – We pursue educational experiences that have meaningful applications in a local and global context, today and tomorrow.

**Access** – We promote a network of support that improves learning opportunities, removes barriers to a quality education and ensures the rights of all students.

**Leadership** – We empower people throughout the college community to support and facilitate positive change.

**Diversity** – We respect and embrace the power of sharing our differences in thought, opinion, culture and background to optimize our collective strength.

**Integrity** – We believe in being true to our core values by acting honestly and consistently in ways that demonstrate our character and moral commitment to “doing the right thing.”

We commit to create and respond to opportunities that inspire these values in ourselves.

## **Appendix C**

### **College Employment Advertising Resources**

## Appendix C

### Mt. San Jacinto College Advertising Resources

#### **Standard Advertising Provided for All Permanent Positions:**

##### *Mt. San Jacinto Community College District Resources:*

- Mt. San Jacinto Community College District employment opportunities website: Mt. San Jacinto Community College District College Human Resources Services website [www.Mt. San Jacinto Community College District.edu/HR](http://www.Mt.SanJacintoCommunityCollegeDistrict.edu/HR)
- Job board inside of Human Resources Services
- Mt. San Jacinto Community College District Employment Opportunity Bulletin (sent to all departments weekly)

##### *External Websites:*

- California Community College Registry website: [www.ccregistry.org](http://www.ccregistry.org)
- Ed-Join website: [www.ed-join.org](http://www.ed-join.org)
- [HigherEdJobs.com](http://HigherEdJobs.com)
- [www.CommunityCollegeJobs.com](http://www.CommunityCollegeJobs.com)
- [www.AcademicJobs.net](http://www.AcademicJobs.net)
- [www.AllHigherEd.com](http://www.AllHigherEd.com)
- [www.FacultyJobs.net](http://www.FacultyJobs.net)
- [www.SciencePositions.com](http://www.SciencePositions.com)
- [www.CollegePresidentJobs.com](http://www.CollegePresidentJobs.com)
- [www.AdjunctProfessorJobs.com](http://www.AdjunctProfessorJobs.com)
- [www.PhDJobs.com](http://www.PhDJobs.com)
- [wwwDeanPositions.com](http://wwwDeanPositions.com)
- [www.SciencePositions.com](http://www.SciencePositions.com)
- [www.HispanicsInAmerica.com](http://www.HispanicsInAmerica.com)
- [www.VeteransInAcademia.com](http://www.VeteransInAcademia.com)
- [www.DisabledInAcademia.com](http://www.DisabledInAcademia.com)
- [www.HigherEdWomen.com](http://www.HigherEdWomen.com)
- [www.LGBTInAcademia.com](http://www.LGBTInAcademia.com)
- [www.AsiansInAcademia.com](http://www.AsiansInAcademia.com)
- [www.BlacksInAcademia.com](http://www.BlacksInAcademia.com)
- [www.NativeAmericansInAcademia.com](http://www.NativeAmericansInAcademia.com)

## Appendix D

### Diversity Organizations in Riverside County

#### General Organizations:

- Anti-Defamation League, Los Angeles Office (Serves Riverside County - <https://www.adl.org/los-angeles>)
- American Civil Liberties Union of Riverside - <https://www.aclusocal.org/>
- AntiRacist Riverside - <https://www.antiracistriverside.com/>
- Inland Empire Community Collaborative - <https://inlandempirecommunitycollaborative.org/>

#### Asian and Pacific Islander Organizations:

- Asian Business Association Inland Empire - <https://www.abaie.org/>
- Filipino-American Chamber of Commerce of Riverside - <https://facctc.org/>
- Japanese Americans Citizens League, Riverside Chapter - [https://www.riversidejacl.org/riverside\\_jacl/pages/](https://www.riversidejacl.org/riverside_jacl/pages/)
- Asian Pacific Americans in Higher Education - <http://apahenational.org/>

#### Black/African American Organizations:

- NAACP Riverside County - <https://naacp-riverside.org/>
- Riverside County Black Chamber of Commerce - <https://riversidecountybcc.org/>
- National Pan-Hellenic Council – Inland Empire - <https://www.nphc-ie.org/>
- African American Male Education Network & Development (A2MEND) - <http://www.a2mend.org/>
- [National Council on Black American Affairs](https://www.ncbaa-national.org/about-us/our-history/) - <https://www.ncbaa-national.org/about-us/our-history/>

#### Disability Organizations:

- Ability Counts - <https://abilitycounts.org/>
- Disability Rights California, Ontario Office - <https://www.disabilityrightsca.org/>
- Goodwill Riverside Career Resource Center - <https://www.goodwillsocal.org/riverside-career-resource-center/>
- Inland Regional Center - <https://www.inlandrc.org/>

#### Lesbian, Gay, Bisexual, Transgender, and Queer (LGBTQ) Organizations:

- LGBTQ+ Center for Riverside County - <https://www.rivcocenter.org/>
- Inland Region Equality network - <http://inlandregionequalitynetwork.org/>
- Parents, Families & Friends of Lesbians and Gays, (Temecula <https://www.pflagtemecula.org/> & Riverside - <https://www.facebook.com/pflagriverside/>)

### Latina/Latino, Hispanic, and Chicana/Chicano Organizations:

- California Community Colleges Organización de Latinx - Colegas - <https://cccolegas.org/>
- Riverside County Hispanic Chamber of Commerce - <https://greaterriversidehispanicchamberofcommerce.org/>
- Chicano Federation - <https://www.chicanofederation.org/>
- League of United Latino American Citizens of Riverside - [https://lulac.org/members/directory/lulac\\_of\\_riverside](https://lulac.org/members/directory/lulac_of_riverside) -

### Native American Organizations:

- Pechanga Band of Luiseno Mission Indians - <https://www.pechanga-nsn.gov/>
- Morongo Band of Mission Indians - <https://morongonation.org/>
- Soboba Band of Luiseno Indians - <https://www.soboba-nsn.gov/>
- Cabazon Band of Mission Indians - <http://www.fantasyspringsresort.com/cbmi/index.html>
- Agua Caliente Band of Cahuilla Indians - <https://www.aguacaliente.org/>

### Veterans Organizations:

- Operation Silver Star - <https://operationsilverstar.org/about-us/>
- Veteran's Services County of Riverside - <https://veteranservices.co.riverside.ca.us/>

## Appendix E

### AP 7120 Recruitment and Selection

Legal

Education Code Sections 87100 et seq., 87400, and 88003; ACCJC Accreditation Standard III.A.1

#### **Management and Administrators**

The following provisions are applicable to the recruitment and hiring of all management positions (excluding the Superintendent/President):

The District's recruitment and hiring procedures shall demonstrate a commitment to diversity, equity, and inclusion in order to achieve the District's mission and support students in achieving their educational goals. The District's recruitment and hiring procedures allow the District to engage in diversity hiring that increases the representation of underrepresented communities in the District's workforce. Diversity hiring includes a hiring process that mitigates unconscious bias and eliminates irrational barriers to employment to allow the District to hire the best candidate regardless of the candidate's protected classes. Underrepresented communities consist of individuals holding identities broadly underrepresented in the District's workforce in comparison to their representation in the field or job category within the state of California or nationally in higher education.

#### HUMAN RESOURCES SERVICE REQUEST (HRSR)

To open a recruitment for either a replacement or a new position, it is the responsibility of each department to initiate a Human Resources Service Request (HRSR) and forward it to the appropriate Vice President for approval. Once the Vice President has approved the request, the HRSR is sent to Human Resources. The Human Resources Department will complete salary information and forward the HRSR to the Executive Cabinet team for approval to recruit. Then, it is submitted to Business Services for budget approval. If the HRSR is for a new position, the position must first go to the Board for approval before the recruitment can begin. If the request is for a replacement position, Board approval is not necessary and the recruitment may begin.

The Superintendent/President, or designee, may determine that, due to economic necessity, a management position vacancy will not be filled, or that the duties of the vacant position will be assigned to another management person, or that the

vacant position will be filled on a temporary (acting) basis. The Superintendent/President, or designee, may recommend such a temporary assignment for up to one (1) full year. If the vacant position is to be filled for a period longer than one (1) full year, the selection procedures provided herein shall apply.

## **JOB DESCRIPTIONS/ANNOUNCEMENTS**

All vacancies for full-time positions shall be advertised in and out of the District. Job announcements will be prepared and distributed by the Human Resources Analyst, based on information provided by the manager responsible for the position being considered. Human Resources shall assure open recruitment for all position vacancies under the guidelines of state and federal equal employment opportunity regulations. Job announcements will be prepared and distributed at the earliest possible date. All applicants shall submit an application using NEOED, the District's online application process (see the District's online application process on the college website). All application materials shall be submitted through the NEOED by 11:59 p.m. on the established position closing date. Application materials are kept on file for a period of three (3) years from the closing date of the recruitment.

The job description must include a requirement that demonstrates clear evidence of sensitivity to an understanding of the diverse academic, socioeconomic, cultural, disability, gender identity, sexual orientation and ethnic backgrounds of community college students, faculty and staff.

## **CONTENT OF JOB ANNOUNCEMENTS**

Job vacancy announcements shall clearly state job specifications, setting forth those skills necessary to job performance and the required training and experience related to those skills. Job vacancy announcements shall include a description of the position, information regarding the institution and/or unit the position is assigned, potential salary range, deadline for applications, location for filing the application, the office to contact for questions and further correspondence and a statement regarding the status of the hiring organization as an Equal Opportunity Employer.

Minimum and desired qualifications will be stated on job vacancy announcements. However, desired qualifications shall not be used to discourage qualified applicants. Minimum qualifications are those skills, knowledge levels and abilities necessary for successful performance of job duties. Minimum qualifications shall include a statement of equivalent qualifications which may be substituted, when appropriate.

## **DISTRIBUTION OF JOB VACANCY ANNOUNCEMENTS**

The goal of this procedure is to hire the best qualified staff available. To this end, recruitment plays the primary role in attracting, and selecting well-qualified and diverse applicant pools. Therefore, in conjunction with appropriate administrators and staff, the Human Resources Department will take into consideration past experience recruiting the position, relative to diversity and quality; job fairs and professional conferences occurring within the recruitment period; and the availability of recruiting resources. At a minimum, each classified opening will be announced on the MSJC website which links to several job search websites. The job announcement is also posted on the external websites CCC Registry and EdJoin. Announcements shall remain posted for a period of at least two (2) weeks. Additional efforts may be used to achieve better qualified and/or more diverse applicant pools. Those efforts include, but are not limited to, advertising in county/national newspapers, advertising in professional publications, exhibiting at job/professional conferences, advertising in minority/women's outreach publications, and/or e-mailing vacancy announcements to targeted groups using established distribution lists.

## **COMPOSITION OF THE SELECTION COMMITTEE**

For each administrative vacancy to be filled, the Human Resources Department shall work collectively with Academic and Classified senates to appoint a diverse group of constituents from multiple departments/divisions to serve as voting members on the selection committee. The representation shall be comprised of the following:

- a. Two (2) administrators selected by the Superintendent/President, or designee (one (1) who will serve as the committee chairperson)
  - One (1) administrator from division/department AND will not be on the final interview panel and one (1) representative to be picked at random from an approved list.
  - If the supervisor is to be included then they can be in either level 1 interview or final interviews with the VP, but not both.
- b. Up to two faculty members recommended by the Academic Senate and approved by the Vice President of Human Resources
- c. Two (2) classified employees recommended by CSEA and approved by the Vice President of Human Resources
- d. Equal Employment Opportunity (EEO) Officer (non-voting)

## **ROLE OF THE SELECTION COMMITTEE**

The selection process must guarantee access, equal opportunity, and fairness to all candidates. Therefore, the selection committee shall be involved in the following activities prior to the interviewing of candidates:

- All committee members must complete EEO training prior to serving as a committee member. **Any committee member who does not complete the training and pass the test with at least 80% by the time the ISM is scheduled will be removed from the committee, and an alternate will be selected.**
- Committee member(s) agreeing to serve will participate in all meetings. If scheduling becomes a conflict, the EEO Officer will move to an alternate if needed.
- The committee will determine the chair of the committee.
- The committee chair assists the EEO Officer to facilitate the committee meeting.
- The committee develops screening criteria and the development of the interview questions and Human Resources must approve the criteria and interview questions prior to the committee selecting candidates for interview.
- The committee will select candidates to interview. Management shall not be allowed to review candidate applications prior to the committee meeting.
- Committee member(s) who miss any of the scheduled meetings shall be removed from the interview committee
- All reference checks will provided by Human Resources
- EEO officer shall be provided by Human Resources
- Upon completion of the interview process, the selection committee shall complete the master interview evaluation form recommending one of the following actions:
  1. Recommend applicant for hire
  2. Recommend applicant(s) for a final interview (when required)
  3. No recommendation for hire

After the HR Analyst has reviewed the applicant pool and screened for minimum qualifications, the committee will meet for the Initial Screening Meeting (ISM). Based on the number of qualified applicants, the HR Analyst will determine whether a Subject Matter Expert (SME) review is recommended or if the existing qualified pool of applicants is to move forward to interview. If a SME is conducted, the committee will be provided instructions and access in NEOED to review the application materials. Using the desired qualification listed in the job flyer, the committee will score each candidate based on a five (5) star rating system. The committee will be given a limited amount of time to complete the SME review and will reconvene in an After Screening Meeting (ASM) to review the candidates that have passed with at least 3 1/2 stars, or 70%. The HR Analyst in coordination with the committee members' schedules, will make the necessary arrangements

for the interviews. The passing candidates will be invited to the interview. Although there is no set number of applicants invited for an interview, it is recommended to invite at least 10. Courtesy interviews are prohibited.

## **FINAL INTERVIEWS**

It will be the committee's task to recommend at least three (3) applicants, if possible, as finalists for interview by the Superintendent/President, or designee. The recommendation of the committee shall be submitted to the Superintendent/President, or designee. If a decision is reached by the Superintendent/President, or designee, to recommend one of the candidates for hire, the Vice President of Human Resources shall be informed in writing and all interview materials returned to the EEO officer. After thorough and satisfactory reference check/employment verification, and after the selected candidate accepts the offer of employment, the Human Resources Department shall prepare a board action for confirmation by the Board of Trustees.

In the event the Superintendent/ President decides not to recommend any of the final candidates for hire, the Vice President of Human Resources shall be informed.

## **ROLE OF THE EEO OFFICER**

The EEO Officer, or designee, shall provide a comprehensive orientation for each interview committee prior to the process. The orientation shall cover identification of resources for the committee; review of equal opportunity provisions and responsibilities, committee roles and charges, processes and procedural guidelines, and other legal considerations. Alleged violations of equal opportunity guidelines are to be referred to the EEO Officer for resolution.

## **REFERENCE CHECKS**

The Human Resources Department will conduct a minimum of two (2) reference checks, with every attempt to contact a current or previous supervisor on the selected applicant prior to any offer of employment (All reference checks are to be completed by human resources). If an employee has worked with the College as a temporary employee for the equivalent of one (1) year, reference checks may be waived at the request of the hiring manager, or designee.

## **SALARY PLACEMENT**

Initial salary placement on the management salary schedule shall generally be at step 2 (Dean and Vice President), and step 5 (Director and Associate Dean).

However, the Superintendent/President, or designee, may authorize a higher step placement within the salary range of the position when it is considered to be in the best interest of the District.

## **NOTIFICATION OF CANDIDATE**

The Human Resources Department shall contact the selected candidate with an offer of employment. All other candidates that were interviewed and not selected will be notified by email via NEOED that they are not being considered further in the selection process by the Human Resources department.

## **BREACH OF CONFIDENTIALITY**

**Confidentiality is the primary responsibility while serving on a hiring committee. Committee members are required to immediately report any breach of confidentiality to the EEO Officer. A breach of confidentiality may require the dissolution of the interview selection committee or a member to be excused from the process. A committee member who has participated in a breach of confidentiality, including failure to report, will be removed from current and all future interview selection committees.**

## **Classified & Supervisory/Confidential Hiring Procedures**

**The following provisions are applicable to the recruitment and hiring of all Classified & Supervisory positions.**

The District's recruitment and hiring procedures shall demonstrate a commitment to diversity, equity, and inclusion in order to achieve the District's mission and support students in achieving their educational goals. The District's recruitment and hiring procedures allow the District to engage in diversity hiring that increases the representation of underrepresented communities in the District's workforce. Diversity hiring includes a hiring process that mitigates unconscious bias and eliminates irrational barriers to employment to allow the District to hire the best candidate regardless of the candidate's protected classes. Underrepresented communities consist of individuals holding identities broadly underrepresented in the District's workforce in comparison to their representation in the field or job category within the state of California or nationally in higher education.

## **HUMAN RESOURCES SERVICE REQUEST (HRSR)**

To open recruitment for either a replacement or a new position, it is the responsibility of each department to initiate a Human Resources Service Request (HRSR) and forward it to the appropriate Vice President for approval. Once the Vice President has approved the request, the HRSR is sent to Human Resources.

The Human Resources Department will complete salary information and forward the HRSR to the Executive Cabinet team for approval to recruit. Then, it is submitted to Business Services for budget approval. If the HRSR is for a new position, the position must first go to the Board for approval before the recruitment can begin. If the request is for a replacement position, Board approval is not necessary and the recruitment may begin. (Approval of the job description may be required by CSEA as applicable).

## **JOB DESCRIPTIONS/ANNOUNCEMENTS**

The Human Resources Department, in coordination with the appropriate division dean, vice president or designee, shall develop the job vacancy announcement, conforming to established District job descriptions. Only the current job description on file in the Human Resources Department will be used as a template to create a job posting. To make changes to a job description or restructure a position, the hiring manager must contact the Vice President of Human Resources or designee. All applicants shall apply using NEOEDGOV, the District's online application process (see the District's online application process on the college website). All application materials shall be submitted through the NEOED by 11:59 p.m. on the established position closing date. Application materials are kept on file for a period of three (3) years from the closing date of the recruitment.

If a classified bargaining unit job description is substantially changed or the position is being restructured, Human Resources will meet with CSEA to discuss the changes. Once Human Resources and CSEA reach an agreement, Human Resources will maintain the documentation and notify the hiring manager of the approval.

The job description must include a requirement that demonstrates clear evidence of sensitivity to an understanding of the diverse academic, socioeconomic, cultural, disability, gender identity, sexual orientation and ethnic backgrounds of community college students, faculty and staff.

## **CONTENT OF JOB ANNOUNCEMENTS**

Job vacancy announcements shall clearly state job specifications, setting forth those skills necessary to job performance and the required training and experience related to those skills. Job vacancy announcements shall include a description of the position, information regarding the institution and/or unit the position is assigned, potential salary range, deadline for applications, location for filing the application, the office to contact for questions and further correspondence and a statement regarding the status of the hiring organization as an Equal Opportunity Employer.

Minimum and desired qualifications will be stated on job vacancy announcements. However, desired qualifications shall not be used to discourage qualified applicants. Minimum qualifications are those skills, knowledge levels and abilities necessary for successful performance of job duties. Minimum qualifications shall include a statement of equivalent qualifications which may be substituted, when appropriate.

## **LATERAL TRANSFER/VOLUNTARY DEMOTION**

Please refer to the CSEA collective bargaining agreement.

## **DISTRIBUTION OF JOB VACANCY ANNOUNCEMENTS**

The goal of this procedure is to hire the best qualified staff available. To this end, recruitment plays the primary role in attracting, and selecting well-qualified and diverse applicant pools. Therefore, in conjunction with appropriate administrators and staff, the Human Resources Department will take into consideration past experience recruiting the position, relative to diversity, equity, and inclusion. At a minimum, each classified opening will be announced on the MSJC website. The job announcement is also posted on the external websites CCC Registry and EdJoin. Announcements shall remain posted for a period of at least two (2) weeks. Additional efforts may be used to achieve better qualified and/or more diverse applicant pools. Those efforts include, but are not limited to, advertising in professional publications, exhibiting at job/professional conferences, advertising in minority/women's outreach publications, and/or e-mailing vacancy announcements to targeted groups using established distribution lists.

## **COMPOSITION OF THE SELECTION COMMITTEE**

For each Classified vacancy to be filled, the HR Analyst will work collectively with CSEA, the hiring administrator, or designee as appointed by their Vice President and with Academic Senate when deemed appropriate, to obtain a diverse group of constituents from multiple departments/division to serve as voting members on the selection committee. The representation shall be comprised of the following:

1. One (1) administrative representative (hiring manager) and one (1) supervisory/confidential employee that is randomly chosen by an HR representative
2. Two (2) classified employees appointed by CSEA or designee; for classified recruitments and two (2) classified employees for supervisory/confidential recruitments

3. One (1) faculty member may also be appointed by Academic Senate at the Dean's request in the case of Instructional Aide recruitment; designated by the Dean in the case of Instructional Aid recruitment);
4. EEO Officer (non-voting)

Non-management employees who participate on interview committees must obtain prior approval from their supervisor to be absent from their regularly assigned duties during the interview process.

To ensure that each applicant is provided a fair and unbiased interview experience, where appropriate, no more than two (2) individuals from the same department shall be assigned to the interview committee.

Augmentation to committee selection may occur through joint agreement between hiring manager, or designee, CSEA and Human Resources. These additional appointees are restricted to the following voting members:

1. Up to two (2) faculty;
2. One student representative to be appointed by the Associated Student Body

(H) All committee members must complete the mandatory EEO training prior to serving on a committee. Any committee member who does not complete the training and pass the test with at least 80% by the time the ISM is scheduled will be removed from the committee, and an alternate will be selected.

(I) After the HR Analyst has reviewed the applicant pool and screened for minimum qualifications, the committee will meet for the Initial Screening Meeting (ISM). Based on the number of qualified applicants, the HR Analyst will determine whether a Subject Matter Expert (SME) review is recommended or if the existing qualified pool of applicants is sufficient to move forward to interview. If a SME is conducted, the committee will be provided instructions and access in NEOED to review the application materials. Using the desired qualifications listed in the job flyer, the committee will score each candidate based on a five (5) star rating system. The committee will be given a limited amount of time to complete the SME review and will reconvene in an After Screening Meeting (ASM) to review the candidates that have passed with at least 3 ½ stars, or 70%. The HR Analyst in coordination with the committee members' schedules, will make the necessary arrangements for the interviews. The passing candidates will be invited to the interview. Although there is no set number of applicants invited for an interview, it is recommended to invite up to 10. Courtesy interviews are prohibited.

## **ROLE OF THE SELECTION COMMITTEE**

The selection process must guarantee access, equal opportunity, and fairness to all candidates. Therefore, the selection committee shall be involved in the following activities prior to the interviewing of candidates:

- All committee members must complete EEO training prior to serving as a committee member. Any committee member who does not complete the training and pass the test with at least 80% by the time the ISM is scheduled will be removed from the committee, and an alternate will be selected.
- Committee member(s) agreeing to serve will participate in all meetings. Committee members who miss any of the scheduled meetings shall be removed from the interview committee (If scheduling becomes a conflict, the EEO Officer will move to an alternate if needed)
- Committee chair assists the EEO Officer to facilitate the committee meeting
- The committee develops the interview questions and Human Resources must approve the interview questions prior to the interview
- Upon completion of the interview process, the selection committee shall complete the master interview evaluation form recommending one of the following actions:
  1. Recommend applicant for hire
  2. Recommend applicant(s) for a final interview (when required)
  3. No recommendation for hire

## BREACH OF CONFIDENTIALITY

**Confidentiality is the primary responsibility while serving on a hiring committee. Committee members are required to immediately report any breach of confidentiality to the EEO Officer. A breach of confidentiality may require the dissolution of the interview selection committee or a member to be excused from the process. A committee member who has participated in a breach of confidentiality, including failure to report, will be removed from current and all future interview selection committees.**

## APPLICANT NOTIFICATION OF NON-SELECTION

Upon completion of the screening process, an interview date will be established by the committee and Human Resources. The HR Analyst sends notifications to the selected applicants via NEOED and invites them to self-schedule for the interview. Applicants not recommended for an interview will be notified by email via NEOED that they are not being considered further in the selection process.

## TESTING OF APPLICANTS

In instances where skills testing is required to determine whether an applicant possesses the ability to perform the required duties of a position, the committee will determine, based on the job vacancy announcement, which skills tests are to be administered. Only applicants selected to be interviewed will be tested. All tests administered to applicants will be reviewed and approved by the EEO Officer, or designee, to ensure that tests are job related and do not have an adverse effect on minority groups, women and other underrepresented classes.

## **ROLE OF THE EEO OFFICER**

The EEO Officer, or designee, shall provide a comprehensive orientation for each interview committee prior to the process. The orientation shall cover identification of resources for the committee; review of equal opportunity provisions and responsibilities, committee roles and charges, processes and procedural guidelines, and other legal considerations. Alleged violations of equal opportunity guidelines are to be referred to the EEO Officer for resolution.

## **FINAL INTERVIEWS**

Final interviews are not mandatory. However, upon completion of the initial interview process the interview committee may forward a list, of up to (4) four candidates per vacancy, to the Human Resources Department to schedule final interviews. Final interviews will generally be conducted by the dean and/or vice president. To avoid conflict of interest, the finalist panel should not include the administrator that served on the first level interview. Once a selection has been made, the dean or vice president, or designee, will contact the Human Resources Department with the name of the selected applicant for processing.

## **REFERENCE CHECKS**

The Human Resources Department will conduct a minimum of two (2) reference checks, with every attempt to contact a current or previous supervisor on the selected applicant prior to any offer of employment (All reference checks are to be completed by human resources). If an employee has worked with the College as a temporary employee for the equivalent of one (1) year, reference checks may be waived at the request of the hiring manager, or designee.

## **NOTIFICATION OF CANDIDATE**

### **A. SALARY PLACEMENT**

Upon receipt of the hiring recommendation, the Human Resources Department will review the selected candidate's previous experience as provided on the application to determine the appropriate salary placement. Salary placement will be determined based on the number of years of

reasonably related experience, and will not generally exceed step 3 of the salary level established for the position per CSEA contract.

## **B. CONTACTING CANDIDATE**

The Human Resources Department shall contact the selected candidate with an offer of employment. All other candidates that were interviewed and not selected will be notified by email via NEOED that they are not being considered further in the selection process by the Human Resources department.

## **Equal Opportunity Employment Plan**

The District's Equal Employment Opportunity plan will document the multiple measures that capture the broad array of strategies and actions the District uses or will use to ensure equal employment opportunity. The Vice President of Human Resources shall provide the Board with an annual report regarding the District's EEO Plan.

Reference: Board resolution 1999/00-82 Local Hiring Criteria; Board Policy 7120