

BP 3410 Nondiscrimination

References:

Education Code Sections 66250 et seq., 72010 et seq., and 87100 et seq.; Title 5 Sections 53000 et seq. and 59300 et seq.;

Penal Code Section 422.55;

Government Code Sections 12926.1 and 12940 et seq.;

ACCJC Accreditation Eligibility Requirement 20 and ACCJC Accreditation Standard Catalog Requirements (formerly Accreditation Standard II.B.2.c)

The District is committed to equal opportunity in educational programs, employment, and all access to institutional programs and activities.

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

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

No District funds shall ever be used for membership, or for any participation involving financial payment or contribution on behalf of the District or any individual employed by or associated with it, to any private organization whose membership practices are discriminatory on the basis of national origin, religion, age, gender, gender identity, gender expression, race, color, medical condition, genetic information, ancestry, sexual orientation, marital status, physical or mental disability, pregnancy, or military and veteran status, or because he/she is perceived to have one or more of the foregoing characteristics, or because of his/her association with a person or group with one or more of these actual or perceived characteristics.

Approved: 9/4/2002

Reviewed: 5/7/2015

Revised: 9/3/2008, 3/7/2012, 6/5/2013, 4/2/2014, 1/8/2014, 6/3/2015

Replaces BP1570, Nondiscrimination in District College Programs

BP 3430 Prohibition of Harassment

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

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

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

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

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

To this end the Superintendent/President shall ensure that the institution undertakes education and training activities to counter discrimination and to prevent, minimize

and/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, and other members of the campus community that provide for the investigation and resolution of complaints regarding harassment and discrimination, and procedures for students to resolve complaints of harassment and discrimination. All participants are protected from retaliatory acts by the District, its employees, students, and agents.

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

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

See Administrative Procedure 3430

Approved: 7/02

Reviewed: 5/7/2015

Revised: 2/03, 8/03, 2/05, 3/12, 5/15

Replaces BP1575, Sexual Harassment

PUBLIC SAFETY NOTICE TO ALL EMPLOYEES

The Federal Drug-Free Workplace Act of 1988 requires provision of a drug-free workplace.

The unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in all work areas of this District. Violation of this prohibition may result in disciplinary action, up to and including dismissal. In addition, violation may constitute violation of the California Education Code and other state laws and may result in immediate suspension without pay in the event that criminal charges are filed.

As a condition of being employed to work under any federal grant received by this District, employees are required to abide by the terms of this statement. Employees are further required to notify their supervisor, Human Resources, or the Superintendent/President of any conviction for a criminal drug statute violation occurring in the workplace within five (5) days after such conviction.

Computer and Network Use

BP 3720

Reference: Education Code Section 70902; 17 U.S.C. Section 101 et seq.; Penal Code Section 502, Cal. Const., Art. 1 Section 1; Government Code Section 3543.1(b)

Employees and students who use District computers and networks and the information they contain, and related resources have a responsibility not to abuse those resources and to respect the rights of others. The Superintendent/President shall establish procedures that provide guidelines to students and staff for the appropriate use of information technologies. The procedures shall include that users must respect software copyrights and licenses, respect the integrity of computer-based information resources, refrain from seeking to gain unauthorized access, and respect the rights of other computer users.

See Administrative Policy AP 3720.

Approved: May 7, 2008

BLOOD-BORNE PATHOGENS - EDUCATION, PREVENTION AND TREATMENT
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2750

The San Luis Obispo County Community College policy for Hepatitis B Virus (HBV), Hepatitis C Virus (HCV) and Human Immunodeficiency Virus (HIV) Education, accommodations of persons with HBV, HCV and HIV and blood-borne pathogens exposure control is consistent with current recommendations of the Centers for Disease Control (CDC), California Community Colleges and California Code of Regulations, Title 8 (CAL-OSHA). These recommendations state that all students and employees will:

1. Consider all blood and body fluids as potentially infected with, HBV, HCV, HIV and/or other blood-borne pathogens.
2. Adhere rigorously to exposure control procedures to minimize the risk of exposure and prevent the spread of infection.

Managers in programs determined by the District to have the potential for occupational exposure to blood-borne pathogens must develop and implement procedures designed to prevent exposure to blood and body fluids, protect the rights of persons with HBV, HCB, and HIV and create an informed campus community. The guidelines must be consistent with the San Luis Obispo County Community College District "Blood-borne Pathogens Standard Exposure Control Plan" (revised 10/02) and related guidelines, and be applicable to faculty, staff and students in each of the identified units.

The plan and guidelines are accessible in the Public Safety Office.

(Approved: 2/7/90)
(Revised: 11/3/93, 8/6/03)

BLOOD-BORNE PATHOGENS - EDUCATION, PREVENTION AND TREATMENT
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R2750

Guidelines to implement this policy are available in the office of the Coordinator of Health Services. The Coordinator of Health Services will perform an annual review of the guidelines.

(Approved: 8/6/03)

Reference: Accreditation Standard IV.B.1(a), (e), and (h).

Codes of ethics (or “standards of practice” as they are sometimes called) define specific expectations for board members. The codes define what boards think is appropriate behavior for trustees, college staff and community members. Codes of ethics put in writing the “oughts” of trusteeship. They go beyond legal requirements in describing board roles and responsibilities and trustee conduct.

The San Luis Obispo County Community College District/Cuesta College Board of Trustees is expected to perform its duties and execute its responsibilities with highest standards of ethical behavior and practices. To promote the trust of the public, ensure a safe and healthy academic environment for students, faculty and staff, and inspire others in the pursuit of success, and to establish an expected level of performance to individual members, the Board adopts this Code of Ethics/Standards of Practice.

1. The Board of Trustees maintains high standards of ethical conduct for its members. Members of the Board are responsible to establish, uphold, implement and enforce all laws and codes under which the District is purview. Given this basic charge, the activities and deliberations of the Board of Trustees will be governed by the following Code of Ethics:

Each Board member will:

- a. Hold the educational welfare of the students of the District as their primary concern in all decisions and strive to meet the needs of all students.
- b. Attend and participate in all meetings, devoting the appropriate amount of time and thought to issues brought to the board to facilitate effective and creditable decisions.
- c. Protect, advance, and promote the interest of all citizens to whom I am fiscally responsible as an elected official by maintaining independent judgment unbiased by private or special interest groups.
- d. Uphold the parliamentary procedures of the governing board and promote and maintain good relations with fellow members through respectful debate and fair conduct at all times.
- e. Recognize that the Board acts as a single entity and that authority rests with consensus of the Board during legal meetings, not with the action of individual members.
- f. Render sound decisions only after discussing all aspects of the issues at hand with my fellow Board members and those who are assembled in legal meetings.
- g. Keep all matters confidential pertaining to Cuesta College which, if disclosed, would needlessly defame or injure any individual(s) or Cuesta College.
- h. Support the efforts of and protect college personnel in the proper performance of their duties.

- i. Strive for the most effective community college board service to my community, in a spirit of teamwork and commitment to public education as the greatest instrument for the preservation and the perpetuation of our representative democracy.
- j. Refer all complaints to the appropriate channels and will act on such complaints at public meetings only after there has been a failure to amicably resolve the issue through those channels.

Ethical Violations

1. The Board is responsible for monitoring itself, ensuring adherence to state and federal laws and its own code of ethics. The Superintendent/President will provide the Board with information regarding changes in legislation and ethics laws, but shall not be required to enforce Trustee ethical behavior.
2. All Board Members are expected to maintain the highest standards of conduct and ethical behavior. The Board will be prepared to investigate the factual basis behind any charge or complaint of Trustee misconduct. A Board member may be subject to a resolution of censure by the Board should they determine trustee misconduct has occurred. Censure is an official expression of disapproval of a Board member's actions by the Board.

Censure Procedure

The Board will review any complaint of Trustee misconduct to determine whether further investigation is warranted. When it has been determined that further investigation is warranted, the complaint will be referred by the Board President for investigation and review to an *ad hoc* committee composed of three Trustees, or other selected person(s), not subject to the complaint. The committee will be guided in its inquiry by the standards set forth in the Board's Code of Ethics as defined herein. In a manner deemed appropriate by the committee, a thorough fact-finding process shall be initiated and completed within a reasonable period of time to determine the validity of the complaint. The Trustee subject to the charge of misconduct shall not be precluded from presenting information to the committee. The committee shall, within a reasonable period of time, make a report of its findings to the Board for action.

Approved/Adopted: October 3, 2007

Commitment to Cultural Competence

BP 7100

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

The San Luis Obispo Community College District defines cultural competence as the ability to embrace diversity. This is demonstrated throughout the college and is reflected in employees' ability to respond respectfully, effectively, and inclusively to diverse ideas and disparate individuals, acknowledging that to do so strengthens the learning and working environment. Exercising cultural competence includes developing one's understanding of people's differences, recognizing one's biases and seeking not to be limited by them in one's thinking and one's actions, and challenging institutional systems and policies that sustain inequalities. The Board is committed to staff development, hiring processes and a campus environment that embody cultural competence.

Approved: January 14, 2009

Effective Date: January 14, 2009

**Equal Employment Opportunity Annual Notice
San Luis Obispo County Community College District Equal Employment
Opportunity Plan 2012-2015**

Reference – 5 CCR §53003(c)(3)

Contact the Equal Employment Opportunity officer, Bill Benjamin, with questions at
william_benjamin1@cuesta.edu

Equal Employment Opportunity Policy Statement

The San Luis Obispo County Community College District is committed to the principles of equal employment opportunity and will implement a comprehensive program to put those principles into practice. It is the district's policy to ensure that all qualified applicants for employment and employees have full and equal access to employment opportunity, and are not subjected to discrimination in any program or activity of the district on the basis of race, color, religious beliefs, gender, national origin, ethnicity, age, mental or physical disabilities, veteran status, sexual orientation, or marital status. The district will strive to provide an environment that fosters cultural competency, cooperation, equity and free expression of ideas. An Equal Employment Opportunity Plan will be maintained to ensure the implementation of equal employment opportunity principles that conform to federal and state laws.

Importance of Participation and Responsibility in Ensuring EEO Plan Implementation

The [San Luis Obispo County Community College District Equal Employment Opportunity Plan 2012-2015](#) (EEO Plan) was adopted by the San Luis Obispo County Community College District Board of Trustees on June 6, 2012. The EEO Plan reflects the district's commitment to equal employment opportunity and further underscores the district's dedication to creating a working and academic environment that welcomes all, fosters diversity and promotes excellence. Because of their educational experience in a diverse and inclusive environment, our students will be better prepared to live and work in our increasingly global society. It is the district's belief that taking active and vigorous steps to ensure equal employment opportunity and creating a working and academic environment, which is welcoming to all, will foster diversity and promote excellence.

Summary of the EEO Plan

The EEO Plan contains the San Luis Obispo County Community College District's Policy Statement (noted above) and describes the responsibilities for EEO Plan implementation. The Equal Employment Advisory Committee is the Cultural Diversity and Student Equity Committee. Additionally, the EEO Plan describes the process for filing complaints regarding alleged violations of EEO regulations and the requirement of training of district employees who are to participate on screening or selection committees pursuant to 5 CCR § 53003 (c)(4). Community-based and professional organizations are notified annually of the district's EEO Plan and are encouraged to refer qualified individuals. Finally, the EEO Plan describes the annual analysis of underrepresentation of monitored groups, methods to address underrepresentation of monitored groups and additional measures to further equal employment opportunity.

Locations Where Complete Copies of the EEO Plan Is Available

The complete San Luis Obispo County Community College District Equal Employment Opportunity Plan 2012-2015 is available online at:

<http://academic.cuesta.edu/accreditation/documents.htm>

The EEO Plan is also available in the San Luis Obispo and North County Campus Libraries, on the Human Resources website, on the Accreditation website, in the Office of the Superintendent/President and in each department office.

WORKERS' COMPENSATION

INSTRUCTIONS FOR ACCIDENT/INJURY/ILLNESS THAT MAY BE JOB RELATED:

Each and every accident on the job involving a faculty member, staff member, or student help is protected by Workers' Compensation.

Strict laws and regulations require that the District follow specific procedures. Prompt reporting is the key to prompt receipt of benefits.

THERE ARE TWO STEPS TO FOLLOW:

1. Report **any** on the job injury or accident immediately to your supervisor, even if at the time you consider the incident minor.
2. If medical treatment is needed, your supervisor will contact Human Resources to complete a Workers' Compensation report and to receive an authorization for medical treatment form.

❖ In case of emergency, contact Public Safety at extension 3205 immediately.

During the first 30 days from the date the injury is reported, employees are obligated to see a panel doctor unless the following form is completed and on file in the Human Resources Office. This form must be on file prior to the injury. Should you be referred by a panel doctor to a non-panel doctor within the 30-day period, the non-panel doctor would also be covered.

If these procedures are **NOT** followed, you risk denial of your claim. If you have any questions, please call the Human Resources Office at extension 3129.

Preventing Discrimination & Harassment



CUESTA COLLEGE

SAN LUIS OBISPO COUNTY COMMUNITY COLLEGE DISTRICT

Equal Employment Opportunity

- Cuesta College is an Equal Opportunity employer.
- All employees who participate on selection committees must complete EEO training within the 12 months prior to serving on the committee.
- The EEO/Cultural Diversity & Student Equity Committee has developed an online EEO training module, which is available on MyCuesta, under HR forms



Equal Employment Opportunity

- The basis for requiring EEO training is in Title 5 of the California Code of Regulations
- Title 5, Section 53003(c)(4) states that the District will establish, “a process for ensuring that district employees who are to participate on screening or selection committees shall receive appropriate training on the requirements of this subchapter and of state and federal nondiscrimination laws”



Discrimination/Harassment

Discrimination and harassment is prohibited under a number of state and federal laws, as well as the following Cuesta policies:

- BP1565 Unlawful Discrimination
- BP1570 Nondiscrimination in District College Programs
- BP1575 Sexual Harassment



Discrimination/Harassment

BP1565 Unlawful Discrimination

The policy of the San Luis Obispo County Community College District is to provide an educational and employment environment in which no person shall be unlawfully denied full and equal access to the benefits of or be unlawfully subjected to discrimination on the basis of ethnic group identification, national origin, religion, age, sex, race, color, ancestry, sexual orientation, or physical or mental disability

Discrimination/Harassment

BP1570 Nondiscrimination in District College Programs

No person shall be denied the benefits of any community college program or activity on the basis of race, color, religious beliefs, gender, national origin, ethnicity, age, mental or physical disabilities, veteran status, sexual orientation, or marital status.



Discrimination/Harassment

BP1575 Sexual Harassment

The policy of the San Luis Obispo County Community College District is to provide an educational and employment environment free from unwelcome sexual advances, requests for sexual favors, verbal or physical conduct or communications constituting sexual harassment.



Discrimination/Harassment

Retaliation

It is unlawful for anyone to retaliate against someone who files a sexual harassment or other unlawful discrimination 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 unlawful discrimination policy. (BP1575)

Discrimination/Harassment

Consequences of Discrimination or Harassment under District policies

Employees, students, or other persons acting on behalf of the District who engage in unlawful discrimination as defined in this policy or by state or federal law may be subject to discipline, up to and including discharge, expulsion, or termination of employment. (BP1565, 1575)



Discrimination/Harassment

- Laws prohibiting discrimination:
 - Title VI and VII of the Civil Rights Act of 1964
 - Title IX of the Education Amendments of 1972
 - Age Discrimination in Employment Act
 - Americans with Disabilities Act
 - Equal Pay Act
 - **Genetic Information Nondiscrimination Act**
 - California Fair Employment & Housing Act



Federal Agencies enforcing discrimination law

- **Employees:** Equal Employment Opportunity Commission
- **Students:** U.S. Department of Education,
Office of Civil Rights



State Agencies enforcing discrimination law

- Department of Fair Employment and Housing
- Chancellor's Office of the Community Colleges



Protected Statuses - Federal

- Race
- Color
- National origin
- Disability
- Sex (gender, pregnancy, sexual orientation)
- Religion
- Age (40+)
- Genetic information discrimination



Protected Statuses - State

- Race, color
- Religious creed
- National origin
- Ancestry
- Physical or mental disability
- Medical condition
- Marital status
- Sex (gender), pregnancy
- Age (40+)
- Sexual Orientation



Discrimination: definitions

- Disparate treatment – e.g. denying someone employment or a promotion or creating a hostile environment
- Disparate impact – having the effect of discrimination, e.g. in excluding protected groups from hiring or promotion
- Retaliation – e.g. denying someone a promotion because they filed a complaint



Definitions, continued

- Disparate treatment: mistreating or disadvantaging an individual on the basis of one or more protected statuses
- Disparate impact: the complainant and/or other members of a protected class were disadvantaged as an *effect* of the respondent/ employer's actions
- Retaliation: mistreating or disadvantaging an individual in retaliation for filing a complaint of discrimination or harassment



Retaliation - note

- Retaliation itself is grounds for a complaint and is treated as a discrimination complaint, regardless of the disposition of the original discrimination or sexual harassment complaint



Disability Discrimination

- Americans with Disabilities Act – protects *qualified* individuals
 - Definition: physical or mental impairment that substantially limits one or more major life activities, a record of such impairment, or being regarded as having such an impairment
 - Qualified: able to perform essential functions of the job with or without accommodation
 - Major life activities: self care, manual tasks, walking, seeing, hearing, speaking, breathing, lifting, learning, thinking, eating, sleeping, interacting
 - Substantially – unable to perform or significantly restricted



Reasonable Accommodation

- Definition: a change in the workplace or in the way things are usually done that provides equal employment opportunities for individuals with disabilities
- An employee who requests an accommodation must have a qualified disability, request an accommodation, provide medical documentation, and engage in an interactive process

Reasonable Accommodation

- An employee who requests an accommodation will meet with the District's compliance officer or designee and engage in an interactive discussion regarding the possible accommodation.
- The employer is required to provide "reasonable" accommodation; but not necessarily the requested accommodation



Gender Discrimination – Sexual Harassment

Four types of sexual harassment:

- Quid pro quo
- Hostile environment
- Third party
- Retaliation



Types of Harassment

- Quid quo pro - “This for that” – an exchange of privileges (e.g. employment, promotion, grades) for sexual favors
- Hostile Environment
 - Physical, verbal, or visual behavior
 - Objectively and subjectively offensive
 - So severe and pervasive so as to interfere with employee’s work or student’s education
- NOTE: simple hostility, on the part of another student, instructor, co-worker or supervisor is not discrimination, unless it is gender based



Student Complaints

- Complaints involving grades – faculty, Chair, Dean, Vice President of Academic Affairs
- Complaints involving behavior between students – Student Resolution Specialist, Vice President Student Services
- Complaints involving student disability accommodations – Dean of Student Services
- Complaints involving discrimination or harassment – Compliance Officer (Executive Director, Human Resources)



Investigating Complaints

- Complainant will be contacted by the office handling the complaint
- Complainant must cooperate in the investigation
- All parties need to keep the matter confidential
- Parties preserve all records related to the complaint, e.g. student grades, tests, reports, projects, portfolios, etc.
- No retaliation against the complainant
- Complainant and/or respondent may have the right to union/legal representation



Filing a Complaint

- Statute of limitations – EEOC: 180 days; DFEH: within 1 year of the alleged discrimination or from date on which the facts were known.
- Informal – confront the harasser (optional), notify the supervisor, administrator, and/or Compliance Officer
- Formal – contact the Compliance Officer



The End

To take the Preventing Discrimination & Harassment quiz, click [here](#).

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Human Resources

