

# NONDISCRIMINATION AND HARASSMENT

## Board Policy 3410

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

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

Also see AP 3410 titled Nondiscrimination, BP/AP 3430 titled Prohibition of Harassment, and AP 3435 titled Discrimination and Harassment Complaints and Investigations.

## Zero Tolerance

It is the highest priority of the San José/Evergreen Community College District to maintain a working and learning environment for every student, District employee and campus visitor that is free from discrimination and harassment. Every District employee and student should be treated with dignity and respect. To achieve this goal the District will have zero tolerance against behavior that amounts to discrimination or harassment. Zero tolerance means that in all instances where discrimination or harassment is found, corrective action will be taken in accordance with state law, the District's collective bargaining agreements and policies. All supervisory personnel will be responsible for maintaining an environment that is free of prohibited discrimination and harassment.

## Discrimination

Discrimination is defined as unfavorable or unfair treatment, or preferential treatment of a person or class of persons, or treatment that has an adverse impact on persons or class of persons, on the basis of any of the above referenced legally protected categories. This policy pertains to all board actions, to all employment practices, to all student related matters, and to the community's ability to access the District's programs, services and use of campus facilities.

## Harassment

Harassment is a form of discrimination and is therefore also prohibited. Harassment means verbal, written, graphic or physical conduct relating to an individual's membership in any of the above referenced legally protected categories that has the purpose or effect of:

1. Creating an intimidating, hostile or offensive working or learning environment; or,
2. Substantially or unreasonably interfering with an individual's work or academic performance; or,
3. Otherwise adversely affecting an individual's employment or academic opportunities.

Harassment can include any unwelcome verbal, written or physical conduct, which offends, denigrates, or belittles any individual because of any of the characteristics described above. Such conduct includes, but is not limited to unsolicited derogatory remarks, jokes, demeaning comments or behavior, slurs, mimicking, name calling, graffiti, gestures, physical contact, stalking, threatening, bullying, extorting or the display or circulation of offensive written materials or pictures.

## Sexual Harassment

"Sexual harassment" is defined in College policy as follows: "unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

1. submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or status in a course, program or activity;
2. submission to or rejection of such conduct by an individual is used as a basis for employment or academic (grades, academic progress, internships, etc.) decisions affecting the individual; or
3. such conduct has the purpose or effect of substantially interfering with an individual's work performance, academic performance, or creating an intimidating, hostile, or offensive work environment."

For details on new sexual assault legal action & procedures, please see the Administrative Procedures section at <http://www.sjeccd.edu/discover-sjeccd/board-of-trustees/board-policies>.

## Discipline

Any individual who is found to have engaged in discriminatory or harassing behavior will be subject to appropriate corrective and/or disciplinary action.

## Complaint Process

The District shall maintain a discrimination complaint procedure for employees, students and campus visitors who believe they have been discriminated against or have suffered some form of harassment.

## Confidentiality

The District recognizes that confidentiality is important to all parties involved in a discrimination or harassment investigation. Confidentiality will be maintained to the extent possible.

## Retaliation Prohibited

The District will not tolerate retaliation against any individual for initiation, pursuit or assistance with a lawful complaint of discrimination or harassment.

### **Where To File An Informal Harassment Or Discrimination Complaint**

Informal complaints may be filed by contacting the designated District and/or Campus Officers, who may accept informal complaints from any location within the San José/Evergreen Community College District.

### **Designated Campus Officers Sexual harassment, gender discrimination, and disability discrimination**

Vice President of Student Affairs, A-2039 (408) 223-6749

### **Disability discrimination and harassment complaints involving students**

Director Student Services and Wellness, Gullo II- 106 (408) 270-6474

### **All discrimination and harassment complaints**

Director of Diversity, SJECCD Office, Bldg. 2, (408) 274-7900 ext. 6798

### **Designated District Officer**

Vice Chancellor of Human Resources: Sexual Harassment and discrimination complaints.

### **State Compliant Process**

For detailed information go to:

<https://www.cccco.edu/About-Us/Chancellors-Office/Divisions/General-Counsel/Programs/College-District-Discrimination-Appeals>.

### **How To File A Formal Harassment Or Discrimination Complaint**

Complaints of sexual harassment or discrimination on the basis of race, color, national origin, ethnic group identification, age, gender, transgender, immigration status, language, accent, religion, sexual orientation, marital status, veteran status, medical condition, physical or mental disability filed against an employee of the District should be directed to the Vice Chancellor of Human Resources or the Diversity Office or to the Vice President of Student Affairs who serves as Title IX Coordinator. Complaints may also be submitted online using a complaint form <https://www.evc.edu/why-evc/legal-regulatory/evc-maxient>.

A copy of these procedures, and the District's Unlawful Discrimination Complaint Forms, are available in the District Human Resources Office, the District Chancellor's Office and in Office of the Vice President of Student Affairs located in the Student Services building, room A-2039. Forms and procedures can also be obtained at the President's Office at each campus, the Office of the President of the Associated Student Body, and the Disabled Student's program at either campus.

An individual may also file a complaint of unlawful discrimination with the any of the following:

Equal Employment Opportunity Commission  
96 N. Third St. Suite 200  
San José, CA 95112

Department of Fair Employment and Housing  
2570 North First Street, Suite 480  
San José, CA 95131

Office of Civil Rights of the U.S. Department of Education  
50 Beale Street, Suite 7200  
San Francisco, CA 94105

at the time of filing a complaint or during, or after use of the District harassment or discrimination complaint process.

Completed complaint forms are to be given to appropriate department supervisor and one copy mailed or taken to:

### **Vice President of Student Affairs**

Title IX Coordinator  
Office of the Vice President, Student Affairs  
Evergreen Valley College  
Student Services Building, Room A-2039  
(408) 223-6749

### **Diversity Office**

San José/Evergreen Community College District  
40 S. Market St.  
San Jose, CA 95113