

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

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Human Resources

