CHAPTER 3 – GENERAL INSTITUTION

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BP 3410 NONDISCRIMINATION

Reference Educational Code Sections: 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.

It is the policy of the San Jose/Evergreen Community College District to provide an educational and employment environment in which no person shall be unlawfully denied in whole or in part full and equal access to, the benefits of, or be subjected to discrimination in any program or activity of the District. This policy prohibits discrimination on the basis of legally protected categories which include ethnic group identification, race, color, language, accent, immigration status, ancestry, national origin, age, sex or gender, gender identity, religion, sexual orientation, marital status, medical condition, veteran status, physical or mental disability, or on the basis of these perceived characteristics or based on association with a person or group with one or more of these actual or perceived characteristics. Conduct need not arise to the level of a violation of law in order to violate this policy.

Zero Tolerance
It is the highest priority of the San Jose/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:

a) Creating an intimidating, hostile or offensive working or learning environment; or,
b) Substantially or unreasonably interfering with an individual's work or academic performance; or,
c) 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.

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.

Board Approved: 7/8/08

Revised 12/08; Board Approved 5/12/09
BP 3420  EQUAL EMPLOYMENT OPPORTUNITY

Reference:  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 respect, 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 Chancellor or designee 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 approved 7/13/10
The District prohibits its employees from engaging in sexual relationships with individuals employed by the District over whom they have a direct line of supervisory relationship. Examples include, but are not limited to, managers, supervisors, and their subordinates. Because of the differential in the level of authority, such relationships could lead to charges of coerced submission or sexual harassment, even if there was apparent consent.

In addition, the District prohibits instructors from engaging in consensual, sexual relationships with students who are enrolled in a class that they are currently teaching, and counselors are prohibited from engaging in consensual sexual relationships with students whom they are currently counseling.

A manager’s, faculty member’s, or supervisor’s liability protection under California statute will not protect the individual in subsequent litigation arising from the relationship’s effect on the student or employee.

See Administrative Procedure
AFT 6157 Collective Bargaining Agreement

Board Approved 6/8/99
BP 3445       AIDS/HIV

It is the policy of the District that all community college students and employees be provided with a safe, fair, sensitive, and non-discriminatory environment for study and work. The Board recognizes the need to protect the legal rights of individuals with AIDS or those who are HIV positive as those rights pertain to privacy, employment, enrollment for instruction, participation in curricular and co-curricular activities, and provision of any benefit or service to which they are otherwise entitled.

Board approved 7/13/10
BP 3450      REASONABLE ACCOMMODATION

The District is committed to providing equal employment opportunities to all employees and job applicants, including those individuals with physical and mental disabilities. (See Board Policy 3410, Nondiscrimination) A disabled employee or job applicant who is otherwise qualified for District employment may request reasonable accommodation(s) to allow him/her to perform the essential functions of the existing or desired job. Upon receipt of such a request, the District shall provide reasonable accommodation to known physical or mental limitations of a qualified disabled individual unless such accommodation(s) would impose an undue hardship on the District.

The District will provide a reasonable amount of break time to an employee desiring to express breast milk for her infant child, so long as there is no serious disruption to District operations.

The Associate Vice Chancellor of Human Resources shall develop procedures for processing requests for reasonable accommodation.

Board approved 7/13/10
BP 3518       CHILD ABUSE REPORTING

Reference:    Penal Code Sections 261, 264.1, 273a, 273d, 285, 286, 288, 288a, 289, 647a, and 11164-11174.3; Welfare and Institutions Code Sections 300, 318, and 601; Family Code Sections 7802, 7807, 7808, 7820-7829, 7890, and 7892

The Chancellor or designee shall establish procedures related to the responsibility of employees, within the scope of employment or in their professional capacity, to report suspected abuse and neglect of children.

Board approved 7/13/10
BP 3540  Sexual and Other Assaults on Campus

References:
   Education Code Sections 67382, 67385, and 67386;
   20 U.S. Code Section 1092(f);
   34 Code of Federal Regulations Section 668.46(b)(11)

NOTE:  This policy is legally required.

Any sexual assault or physical abuse, including, but not limited to rape as defined by California law, whether committed by an employee, student or member of the public, that occurs on District property, is a violation of District policies and procedures, and is subject to all applicable punishment, including criminal procedures and employee or student discipline procedures. Students, faculty, and staff who may be victims of sexual and other assaults shall be treated with dignity and provided comprehensive assistance.

The Chancellor shall establish administrative procedures that ensure that students, faculty, and staff who are victims of sexual and other assaults receive appropriate information and treatment, and that educational information about preventing sexual violence is provided and publicized as required by law.

The procedures shall meet the criteria contained in Education Code Sections 67385, 67385.7, and 67386, and 34 Code of Federal Regulations Section 668.46.

Board Approved July 14, 2015
BP 3550       DRUG FREE ENVIRONMENT AND DRUG PREVENTION PROGRAM

Reference:  Drug Free Schools and Communities Act, 20 U.S. Code Section 1145g; 34 C.F.R. Sections 86.1 et seq.; Drug Free Workplace Act of 1988, 41 U.S. Code Section 702

The District shall be free from all drugs and from the unlawful possession, use or distribution of illicit drugs and alcohol by students and employees.

The unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in all facilities under the control and use of the District.

Any student or employee who violates this policy will be subject to disciplinary action (consistent with local, state, federal law or collective bargaining agreement as appropriate), which may include referral to an appropriate rehabilitation program, suspension, demotion, expulsion or dismissal.

The Chancellor shall assure that the District distributes annually to each student and employee the information required by the Drug-Free Schools and Communities Act Amendments of 1989 and complies with other requirements of the Act.

Board approved 7/13/10
BP3720 Computer and Network Use

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 Sections 8314 and 3543.1(b).

Purpose

This Computer and Network Use Policy is necessary to ensure the ability of the District to effectively fulfill its educational mission, goals and objectives and to protect the District and its employees from potential liability for illegal use of the computer systems. Its purpose is to ensure compliance with State and Federal laws, to prevent misuse and to protect the District’s networks and assets.

The Chancellor, upon the input, advice and consultation with the shared governance groups including the unions and Academic Senates, shall establish procedures that provide guidelines for the appropriate use of information technologies that will apply uniformly to all members of the College community using the District’s computer resources. The procedures shall include that users must respect software copyrights and licenses, respect the integrity of the computer-based information resources, refrain from seeking to gain unauthorized access, and respect the rights of other computer users.

The San Jose Evergreen Community College District recognizes that principles of academic freedom and shared governance, freedom of speech, Constitutional rights of privacy under the California Constitution and privacy of information hold important implications for electronic mail and computer services. Electronic mail and computer services shall have privacy protection comparable to that which is traditionally afforded sealed mail and telephone conversations.

The San Jose/Evergreen Community College District respects the rights of employee organizations as set forth in Education Code Section 3543.1(b) to have access to the District’s electronic mail system and other communication systems in order to communicate with their members. This policy is not intended to cover, and does not pertain to, the content of communications among bargaining unit representatives and their members concerning bargaining and personnel matters and nothing in this policy shall be deemed to restrict the content of such communications in any way. This policy is also not intended to cover and does not pertain to the content of communication between faculty members and their students, since that communication is part of teaching performance, the observation of which is governed by the contract between the Faculty Association and the District.

This policy and District procedures do not waive any users’ rights protected by state or federal law, including rights of privacy. These guidelines apply to all electronic mail and computer services provided or owned by the District. The computer resources of the San Jose/Evergreen Community College District are for the use of persons legitimately affiliated with SJECCD (as faculty, staff, students or administrators & consultants) to facilitate the exchange of information consistent with the academic, educational, administrative and research purposes of the District. They are not to be used by any person without the proper authorization of the District.

Board Approved June 6, 2009