

General Institution

AP 3420 EQUAL EMPLOYMENT OPPORTUNITY

References:

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

The EEO Plan should be a District-wide, written plan that implements the District's EEO Program, includes the definitions contained in Title 5 Section 53001 and addresses the following:

- Submission of plans and revisions to the State Chancellor's Office for review and approval as required;
- The designation of the District employee or employees who have been delegated responsibility and authority for implementing the plan and assuring compliance with the requirements of this Procedure;
- The procedure for filing complaints and the person with whom such complaints are to be filed;
- A process for notifying all District employees of the provisions of the plan and the policy statement required;
- A process for ensuring that District employees who are to participate on screening or selection committees shall receive appropriate training on the requirements of the applicable Title 5 regulations and of state and federal nondiscrimination laws;
- A process for providing annual written notice to appropriate community-based and professional organizations concerning the District's plan and the need for assistance from such organizations in identifying qualified applicants for openings within the District;
- An analysis of the number of persons from "monitored groups", as defined by Title 5 Section 53001(i), who are employed in the District's work force and those who have applied for employment in each of the job categories listed below;

- An analysis of the degree to which monitored groups are underrepresented in comparison to the numbers of persons from such groups whom the State Chancellor's Office determines to be available and qualified to perform the work required for each such job category and whether or not the underrepresentation is significant;
- The steps the District will take to promote diversity in its work force;
- Methods for addressing any discrimination that is detected in the District's hiring practices, and;
- Additional steps to address any significant underrepresentation of monitored groups identified in the plan.

The Plan shall be a public record.

The District shall make a continuous good faith effort to comply with the requirements of the Plan.

Annual Evaluation

A survey of District employees and applicants for employment in order to evaluate progress in implementing the EEO Plan and to provide data needed for required analyses will be provided to the State Chancellor's Office annually. The report shall identify each employee as belonging to one of the following seven job categories:

- executive/administrative/managerial
- faculty and other instructional staff
- professional non-faculty
- secretarial/clerical
- technical and paraprofessional
- skilled crafts; and
- service and maintenance.

All applicants are given an opportunity for each employee to identify his/her gender, ethnicity and, if applicable, disability. This opportunity allows for a person to designate multiple ethnic groups with which he/she identifies. However, the person may only be counted in one group for reporting purposes.

EEO Advisory Committee

The District shall establish an EEO Advisory Committee and the advisory committee shall include a diverse membership whenever possible.

The responsibilities of the Committee shall include but not be limited to the following:

- review and advise on aspects of the hiring, retention, and promotion processes that impact the District's ability to attract and retain a diverse faculty and staff;

- advise on implementing the District's obligation to hire faculty and administrators with a demonstrated sensitivity to, and understanding of, the diverse academic, socioeconomic, cultural, disability and ethnic backgrounds of community college students;
- promote communication with community groups and organizations for people with disabilities;
- promote hiring of faculty who have, themselves, graduated from a community college;
- develop communications among departments to foster understandings of the Plan;
- to advise the Chancellor regarding special training or staff development needs;
- review the Plan and monitor its progress; and
- recommend changes needed in the Plan.

Employment Procedures

Job Analysis and Validation: The Associate Vice Chancellor for Human Resources shall assure that a proper job analysis is performed for every job filled by the District to determine and validate the knowledge, skills, abilities and characteristics an employee must possess to perform the job satisfactorily.

A statement of bona fide essential functions and minimum qualifications shall be developed for all positions.

Job Description: Every job description shall provide a general statement of job duties and responsibilities.

Job specifications shall include functions and tasks; knowledge; skills; ability; and job related personal characteristics, including but not limited to sensitivity to and understanding of the diverse academic, socioeconomic, cultural, linguistic, disability, and ethnic backgrounds of community college students.

Recruitment: Recruitment must be conducted actively within and outside of the District work force.

Open recruitment is mandated for all new full-time and part-time positions, except under limited circumstances.

Recruitment must utilize outreach strategies designed to ensure that all qualified individuals, from all monitored groups, are provided the opportunity to seek employment with the District.

Recruitment for administrative and faculty positions (full and part-time) may include advertisement in appropriate professional journals, job registries and newspapers of general circulation; distribution of job announcements to the EEO Registry, K-12 districts, two and four year colleges, and graduate schools where appropriate candidates might be enrolled; recruitment at conferences, fairs, and professional meetings; notices to institutions and professional organizations that primarily serve members of monitored groups that are underrepresented in the District.

Recruitment for classified positions shall include notice to all District personnel; notice to Employment Development Department; and advertising in other area venues as appropriate.

Applicant Pools: The application for employment shall afford each applicant an opportunity to identify himself/herself voluntarily as to gender, ethnicity and, if applicable, his/her disability. This information shall be maintained in confidence and shall be used only for research, validation, monitoring, evaluation of the effectiveness of the Plan, or as authorized by law.

Screening and Selection: Screening, selecting and interviewing candidates for all positions shall include thorough and fair procedures that are sensitive to issues of diversity. Procedures to be used must address or include that:

- Hiring procedures will be provided to the State Chancellor's Office on request.
- All tests conform to generally applicable legal standards for uniformity.
- A reasonable number of candidates are identified for interview.
- Screening and selection committees are developed that are representative of the District community and campus; include administrators, faculty, and classified staff members; include a diverse membership when possible; do not include applicants or persons who have written letters of recommendation.
- Every screening and selection committee includes an individual trained to monitor conformance with EEO requirements. The Associate Vice Chancellor for Human Resources assures that the screening and selection process conforms to accepted principles and practices, including preparation of job related questions in advance; maintains records of screening checklists and rating scales, which shall be signed and kept on file; maintains notes for all interviews and record relevant factual reasons stating why a candidate was not hired or was not invited to interview; and monitors the hiring process for adverse impact.

- Selection shall be based solely on the stated job criteria.

If the District determines that a particular monitored group is significantly underrepresented with respect to one or more job categories, the District shall take the following additional steps:

- review its recruitment procedures;
- consult with counsel to determine whether there are other, additional measures that may be undertaken that are required and/or permitted by law;
- consider various other means of reducing the underrepresentation which do not involve taking monitored group status into account and implement any such techniques that are feasible.

If significant underrepresentation persists, the District shall:

- monitor on an on-going basis;
- review each locally-established job qualification to determine if it is job related and consistent with business necessity;
- discontinue the use of any non job related local qualification; and
- continue using job-related local qualifications only if no alternative standard is reasonably available.

Delegation of Authority

The Associate Vice Chancellor of Human Resources shall act as the District “EEO Officer” charged with overseeing the day-to-day implementation of the EEO Plan and programs.

- Processes and responsibilities when the EEO Officer is named in a complaint or implicated by the allegations in a complaint.

Complaint Procedure

The District must identify to the public and to the State Chancellor’s Office an individual described in Title 5 as the “responsible District officer,” responsible for receiving complaints. Informal charges of unlawful discrimination should be brought to the attention of the responsible District officer. The responsible District officer shall oversee the informal resolution process. The actual investigation of complaints may be assigned to other staff or to outside persons or organizations under contract. An outside investigator must be used when the responsible District officer is named in the complaint or implicated by the allegations in the complaint.

When a person brings charges of unlawful discrimination the officer must:

- Undertake efforts to resolve the charge informally;
- Advise the complainant that he/she need not participate in an informal resolution of the complaint;
- Notify the complainant of the procedures for filing a formal complaint;
- Notify the complainant that he/she may file a complaint with the Office of Civil Rights of the U.S. Department of Education;
- If the complainant, a student or an employee, files a formal complaint, the responsible District officer must also forward a copy of the complaint to the State Chancellor's Office.

A formal complaint not involving employment, must be processed if it is 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.

A formal complaint alleging discrimination in employment must be filed within 180 days of the date of the alleged unlawful discrimination, unless the complainant first obtained knowledge of the facts of the alleged violation after the expiration of the initial 180 days.

The complaint must be filed by someone who alleges that he/she has personally suffered unlawful discrimination, or by someone who has learned about unlawful discrimination in his/her official capacity.

When a proper complaint is received, the District will begin an impartial fact-finding investigation, and notify the complainant and the State Chancellor's Office that it is doing so.

When the investigation is done, the results must be set forth in a written report. The written report must include a description of the circumstances giving rise to the complaint, a summary of the testimony of each witness, an analysis of any relevant data or other evidence collected during the investigation, a specific finding as to whether discrimination did or did not occur with respect to each allegation in the complaint, and any other appropriate information.

In any case that does not involve employment discrimination, the District must provide the State Chancellor's Office with a copy of the investigative report within ninety days from the date the District received the complaint. The District must also provide the complainant with a copy or summary of the investigative report within ninety days from the date the District received the complaint. The State Chancellor's Office and the complainant must also be provided with a written notice setting forth the determination of the [designated position] as to whether discrimination did or did not occur with

respect to each allegation in the complaint; a description of action taken, if any, to prevent similar problems from occurring in the future; the proposed resolution of the complaint; and notice of the complainant's right to appeal to the District's Governing Board and the State Chancellor's Office.

In any case that involves employment discrimination, the District must provide the complainant with a copy or summary of the report, and with written notice setting forth the determination of the Associate Vice Chancellor for Human Resources as to whether discrimination did or did not occur with respect to each allegation in the complaint; a description of action taken, if any, to prevent similar problems from occurring in the future; the proposed resolution of the complaint; and the complainant's right to appeal to the District's Board of Trustees and to file a complaint with the Department of Fair Employment and Housing.

If the complainant is not satisfied with the results of the administrative determination, the complainant must be given the opportunity to submit a written appeal to the governing board within fifteen days from the date of the notice of the administrative determination. The Board of Trustees must review the original complaint, the investigative report, the administrative determination, and the appeal and must issue a final District decision within forty-five days of receiving the appeal.

In any case not involving employment discrimination, a copy of the final District decision must be promptly forwarded to the complainant and the State Chancellor's Office. The complainant must be notified of his/her right to appeal. In any case involving employment discrimination, a copy of the final District decision must be promptly forwarded to the complainant. The complainant must be notified of his/her right to file a complaint with the Department of Fair Employment and Housing.

Where the Board of Trustees does not act within forty-five days the administrative determination must be deemed approved and must become the final District decision. The District shall promptly notify the complainant and in cases not involving employment discrimination, the State Chancellor's Office, that the Board of Trustees took no action and the administrative determination becomes the final District decision. In cases not involving employment discrimination, the complainant must be informed of his/her right to appeal the District's decision to the State Chancellor's Office. In cases involving employment discrimination, the complainant shall be notified of his/her right to file a complaint with the Department of Fair Employment and Housing.

In cases not involving employment discrimination, the complainant must be given the right to file a written appeal with the State Chancellor's Office within 30 days after the Board issues the final District decision, permits the administrative decision to become final or from the date that notice of the District's final decision was provided to the complainant pursuant to Section 59338(b) or (d), whichever is later.

The District should retain and make available the original complaint, and copies of the final decision or a statement indicating the date on which the administrative

determination became final, the notice given to complainant, the complainant's appeal of the District's administrative determination, the investigative report and any other information the State Chancellor's Office may require.

Job Announcements

All job announcements shall contain a statement in substantially the following form: The District is an equal opportunity employer. The policy of the District is to encourage applications from ethnic and racial minorities, women, persons with disabilities, and Vietnam-era veterans. No person shall be denied employment because of ethnicity or race, color, sex or gender, age, religion, marital status, disability, sexual orientation, national origin, medical conditions, status as a Vietnam-era veteran, ancestry, or political or organizational affiliation.

Dissemination and Revision of the Plan

All managers and supervisors shall be given copies of the plan as revised from time to time and any guidelines for implementing the plan. Copies of the plan shall be provided to the Academic Senate and the exclusive representatives of any units of employees.

Statements of nondiscrimination shall be posted at locations where applications for employment are distributed.

Such plans shall be reviewed at least every three years and, if necessary, revised and submitted to the State Chancellor's Office within 90 days of the effective date of the revision or amendment(s). If the State Chancellor's Office determines that the District's policies are not in compliance with Title 5 Sections 59300 et seq., the State Chancellor's Office may require the District to modify its policies.

Accommodation Procedures for Job Applicant:

1. A job applicant who is an individual with a disability may request a reasonable accommodation in order to participate in the application and selection process for available District positions.
2. The applicant requesting accommodation must first put the request in writing by completing the District's form entitled, "Request for Reasonable Accommodation — Job Applicant." These forms are available from the District Human Resources Department. The form must be returned to the Human Resources Department.
3. An applicant requesting reasonable accommodation must submit with his/her request the District's "Disability Certification Form" which has been completed by an appropriate licensed medical professional. The District reserves the right to require that the applicant's need for accommodation in the application process be verified by a District-approved physician at the District's expense.
4. Upon receiving the required paperwork from the applicant, the Associate Vice Chancellor of Human Resources will make a determination as to whether the

applicant is entitled to reasonable accommodation. If the applicant qualifies for reasonable accommodation, the Associate Vice Chancellor of Human Resources, in consultation with other appropriate management personnel, shall consider the applicant's request in the following manner:

- a. Analyze the application and selection process;
 - b. Consider the accommodation requested by applicant and assess its cost and effectiveness; and
 - c. Identify potential alternate accommodations and assess the cost-effectiveness of each.
5. The Associate Vice Chancellor of Human Resources will consult with the applicant and may consult with state and local rehabilitation agencies, and disability constituent organizations in order to make a determination regarding a reasonable accommodation.
 6. The applicant will be notified in writing by the Associate Vice Chancellor of Human Resources, or designee, of the District's final decision regarding his/ or her request for reasonable accommodation in the application or selection process.

Accommodation Procedures for Employees:

1. An employee who is a qualified individual with a disability may request a reasonable accommodation in order to perform the essential job duties of his/ or her position or in order to enjoy the benefits of employment equivalent to those available to nondisabled employees.
2. The employee must first put the request in writing by completing the District form entitled, "Request for Reasonable Accommodation — Employee." These forms are available from the District Human Resources Department. The form must be returned to the Human Resources Department.
3. An employee requesting reasonable accommodation must submit with his/ or her request, the District's "Disability Certification Form" which has been completed by an appropriate licensed medical professional. The District reserves the right to require that the employee's need for accommodation be verified by a District-approved occupational physician at the District's expense.
4. Upon receiving the required paperwork from the employee, the Associate Vice Chancellor of Human Resources will make a determination as to whether the employee is entitled to reasonable accommodation. If the employee qualifies for reasonable accommodation, the Associate Vice Chancellor of Human Resources

in consultation with other appropriate management personnel, shall consider the employee's request in the following manner:

- a. Analyze the particular job involved and determine its essential functions and/or analyze the benefits of employment allegedly made unavailable because of employee's disability;
 - b. Arrange a meeting between the employee and the Associate Vice Chancellor of Human Resources to discuss the employee's functional limitations and how those limitations may be overcome with a reasonable accommodation;
 - c. Consider the employee's requested accommodation and identify other potential accommodations, assessing their cost and effectiveness. Rehabilitation agencies, disability constituent organizations and employee representatives may be consulted for assistance in this process;
 - d. Arrange a meeting between the employee and appropriate management personnel in an effort to reach consensus on an acceptable accommodation;
 - e. If consensus is reached, the accommodation will be memorialized in writing and sent to the employee and appropriate management personnel. A copy of the agreed-upon accommodation will be placed with the employee's medical records in a separate envelope within the employee's personnel file;
 - f. If consensus is not reached, the Associate Vice Chancellor of Human Resources will notify the employee in writing of the District's final decision regarding his/her request for reasonable accommodation.
5. Failure of the employee to cooperate with the reasonable accommodation process shall suspend the District's efforts to process the employee's Request for Accommodation.
 6. An employee who is dissatisfied with the District's decision may file a Complaint of Unlawful Discrimination with the Associate Vice Chancellor of Human Resources.

Also see BP/AP 3410 titled Nondiscrimination and BP/AP 7120 titled Recruitment and Hiring