

BP 3430 Unlawful Discrimination

Reference:

***Education Code Section 66250, et seq.; 72010, et seq.
Title 5, California Code of Regulations, Section 59300, et seq.***

- 1.0 It is the policy of the North Orange County Community College District to provide an educational, employment, and business environment in which no person shall be unlawfully subjected to discrimination or sexual harassment, nor unlawfully denied full and equal access to the benefits of any program or activity of the District that is administered by, directly funded by, or that receives any financial assistance from the Chancellor or Board of Governors of the California Community Colleges.
- 2.0 It shall be a violation of this policy for anyone who is authorized to recommend or take personal or academic action affecting an employee or student, or who is otherwise authorized to transact business or perform other acts or services on behalf of the North Orange County Community College District, to engage in unlawful discrimination, as defined below, or for anyone to retaliate against a person who files an unlawful discrimination complaint, who participates in an investigation of a complaint, or who represents or serves as an advocate for the complainant or for the person against whom a complaint is made.
 - 2.1 The District will take preventive, corrective, and disciplinary action for any act that violates this policy or the rights and privileges it is designed to protect.
 - 2.2 Employees, students, or other persons acting on behalf of the District who engage in unlawful discrimination or retaliation may be subject to discipline, up to and including discharge, expulsion, or termination of contract.
 - 2.3 Employees should be aware that if they engage in of unlawful discrimination, such acts are outside the course and scope of their employment and may result in personal liability to the employee.
 - 2.4 The District supports the principle of academic freedom, and the provisions of this policy are not intended to prohibit bona fide academic program and course requirements. However, the exercise of academic freedom with respect to course content and discourse does not extend to any form of unlawful discrimination in violation of this policy.
- 3.0 Unlawful Discrimination
 - 3.1 "Unlawful Discrimination" means discrimination on the basis of ethnic group identification, national origin, religion, age, sex, race, color, ancestry, sexual orientation, or physical or mental disability as defined and otherwise prohibited by state and federal statutes, and includes sexual harassment.

BP 3430 Unlawful Discrimination

3.2 Sexual Harassment

3.2.1 "Sexual harassment" means unwelcome sexual advances, requests for sexual favors, and other verbal, visual or physical conduct of a sexual nature made by someone from the work or educational setting, under any of the following conditions:

3.2.1.1 Submission to the conduct is explicitly or implicitly made a term or a condition of an individual's employment, academic status, or progress.

3.2.1.2 Submission to, or rejection of, the conduct by an individual is used as the basis of employment or academic decisions affecting the individual.

3.2.1.3 The conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance, or of creating an intimidating, hostile, or offensive work or educational environment.

3.2.1.4 Submission to, or rejection of, the conduct by an individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available through the North Orange County Community College District.

3.2.2 Specific Examples: For the purpose of further clarification, sexual harassment may include, but is not limited to, the following conduct, when it occurs under one or more of the conditions described in section 3.2.1 above:

3.2.2.1 Making unsolicited written, verbal, physical, or visual contact with sexual overtones.

3.2.2.1.1 Written: Includes, but is not limited to, suggestive or obscene letters, notes, or invitations.

3.2.2.1.2 Verbal: Includes, but is not limited to, derogatory comments, slurs, jokes, or epithets.

3.2.2.1.3 Physical: Includes, but is not limited to, assault, touching, impeding, or blocking movement.

BP 3430 Unlawful Discrimination

- 3.2.2.1.4 Visual: Includes, but is not limited to, leering, gestures, or display of sexually suggestive objects, pictures, cartoons, or posters not germane to the employment setting.
- 3.2.2.2 Continuing to express sexual interest after being informed that the interest is unwelcome.
- 3.2.2.3 Making reprisals, threats of reprisals, or implied threats of reprisals following rejection of sexual harassment:
 - 3.2.2.3.1 Within the Work Environment: Either implying or actually withholding support for an appointment, promotion, or change of assignment; suggesting that a poor performance report will be prepared; or suggesting that probation will be failed.
 - 3.2.2.3.2 Within the Educational Environment: Either implying or actually withholding grades earned or deserved; suggesting that a poor performance evaluation will be prepared; or suggesting that a scholarship recommendation or college application will be denied.
- 3.2.3 Within the North Orange County Community College District, sexual harassment is prohibited regardless of the status and/or relationship the affected parties may have.
 - 3.2.3.1 Private, personal conduct may at some point become unwelcome. Employees placed on notice that the co-employee or student now finds the conduct unwelcome shall cease such conduct immediately. Any conduct of a sexual nature following such notice may be determined to be sexual harassment. Such conduct is subject to investigation by the District on the complaint of an individual who finds it to be unwelcome.
 - 3.2.3.2 Employees who participate in a consensual relationship, and at some point wish to discontinue the relationship, must clearly state to the other participant that the conduct is no longer consensual or welcome, and that all such conduct must cease.
- 3.2.4 Employees with supervisory responsibilities who witness or receive reports of sexual harassment are required to immediately report such conduct to the District Director of Human Resources.

North Orange County Community College District
BOARD POLICY
Chapter 3
General Institution

BP 3430 Unlawful Discrimination

- 4.0 Responsible District Officer: The Vice Chancellor of Human Resources is designated by the District as the single District officer responsible for receiving all unlawful discrimination complaints filed pursuant to section 59328 of Title 5 of the California Code of Regulations, and for coordinating their investigation. The actual acceptance and investigation of complaints may be assigned to other staff or to outside persons or organizations under contract with the District.

- 5.0 Information on where to obtain specific rules and procedures for reporting charges of unlawful discrimination may be obtained by contacting the District Director of Human Resources, Anaheim Campus, 1830 W. Romneya Drive, Anaheim, CA 92801-1819, telephone (714) 808-4818.

- 6.0 A copy of this policy will be displayed in a prominent location in the main administrative building of each campus or other area where notices regarding the District's rules, regulations, procedures, and standards of conduct are posted.

- 7.0 Faculty and staff will be provided with a copy of this policy at the beginning of the first quarter or semester of the college year after the policy is adopted, or at the time of hire as a new employee.

- 8.0 A copy of this policy, as it pertains to students, will be provided as part of any orientation program conducted for new students at the beginning of each quarter, semester, or summer session, as applicable.

See Administrative Procedure AP 3430.

Date Adopted: December 10, 2002

Date of Last Revision: March 23, 2004
October 11, 2005