

## **11D Equal Employment Opportunity and Unlawful Discrimination (Revised December 17, 2009)**

### **11D1 Equal Employment Opportunity in the Employment of Personnel**

It shall be the policy of the Kern Community College District that equal opportunity to seek, obtain, hold, and advance in employment in the District shall be afforded to all who qualify without discrimination because of race, color, ethnic group identification, ancestry, religion, national origin, sex (gender), sexual orientation, age, and/or physical or mental disability. Appropriate qualifications for the performance of specific duties are the basic criteria for the employment and promotion of personnel. Additional efforts will be made to recruit, develop, and to promote qualified members of groups that are underrepresented in the District workforce, even if that underrepresentation cannot be traced to particular discriminatory actions on the part of the District.

**11D1A** The District will continuously review its policies, procedures, practices, pool and workforce statistics, and any other factor that might contribute to workforce imbalance or adversely impact employment opportunities of members of protected groups.

**11D1A1** The District will annually review the Equal Employment Opportunity Plan and revise as appropriate to address any problems with regard to recruiting a diverse workforce on the schedule provided by the State Chancellor's Office.

**11D1A2** Information regarding Equal Employment Opportunity will be made available annually to the staff and community.

**11D1A3** The District's Human Resources Department will continue to assure reasonable accommodation for applicants and employees with disabilities upon request.

**11D1A4** Pre-employment physicals or drug testing shall be conducted only following an offer of employment. This offer of employment is conditioned on the employee either passing these tests, or providing proof of disability [as defined in the Americans with Disabilities Act (ADA)]. The District will provide reasonable accommodation upon request to applicants and employees in accordance with Federal Americans with Disabilities Act (ADA).

**11D1A5** Whenever possible the names, titles, office locations, and office telephone numbers of individuals serving as liaisons of Equal Employment Opportunity programs, Equal Employment Opportunity officers, receivers of unlawful discrimination complaints, responsible personnel, ADA coordinators, and others responsible for Equal Employment Opportunity functions shall be identified and made public to employees and students.

**11D1B** The Board of Trustees recognizes and accepts its responsibilities under the California Education Code and the California Code of Regulations (Title 5) to:

**11D1B1** Assume overall responsibility for the success of the District's effort to achieve Equal Employment Opportunity.

**11D1B2** Approve the District and College Staff Availability Data as well as any revisions; and assure that these are submitted to appropriate agencies in a timely fashion.

**11D1B3** Assure that in all employment procedures for all positions there is no unlawful discrimination.

**11D1B4** Provide a supportive environment free of cultural bias for all staff and students.

**11D1C** An Equal Employment Opportunity Advisory Committee shall be established to advise the District on personnel matters relating to equal employment opportunities.

**11D1C1** The Equal Employment Opportunity Advisory Committee will review Staff Availability Data and other relevant data for the purpose of advising the District and assisting in its commitment and goals in achieving equal employment opportunities.

**11D1C2** Composition of the Equal Employment Opportunity Advisory Committee shall approximate a balance between District employees and Community members and shall provide for wide representation, including ethnic minorities, women, and the disabled whenever possible.

**11D1C3** The District Equal Employment Opportunity Advisory Committee members shall be appointed by the District Equal Employment Opportunity Officer and shall serve for a period of three (3) years. The Committee shall meet at least once in every calendar year.

**11D1D** The following District officers shall be responsible and accountable for providing District-wide leadership in Equal Employment Opportunity:

**11D1D1** The Vice Chancellor, Human Resources shall assume administrative responsibility for implementation of the Equal Employment Opportunity Policy.

**11D1D2** The Vice Chancellor, Human Resources or his/her designee shall be responsible for the ongoing administration of this policy. This ongoing administration, in cooperation with the College Equal Employment Opportunity officers, shall include:

- Monitoring the employment process to ensure that selection or elimination of candidates for employment is based on job-related criteria.
- Providing Multi-college District Staff Availability Data, as it is made available to the District from the California Community Colleges Chancellor's Office.
- Initiating action to correct any identified Equal Employment Opportunity concerns.
- Receiving, investigating, and seeking resolution of unlawful discrimination complaints. (See **Procedure 11D4A**)

**11D1D3** The faculty and staff of this District shall be responsible and accountable as follows:

**11D1D3A** Foster and promote a positive environment and overall hospitable atmosphere to staff and students of all cultures and heritages, encouraging the appreciation and value of diversity to the College communities.

**11D1D3B** Act on behalf of the District in recruitment and selection of personnel. In this capacity, faculty and staff shall comply with all applicable state and federal laws and regulations.

**11D1E** The District and Equal Employment Opportunity Officer(s) shall conduct periodic internal auditing, reporting, and evaluating of the effectiveness of the Equal Employment Opportunity Program.

**11D1E1** The Equal Employment Opportunity Liaisons shall compile an annual workforce and utilization analysis of District personnel and shall use the data to recruit a diverse applicant pool and workforce.

**11D1E2** College Equal Employment Opportunity Liaisons shall monitor the ethnicity and gender make-up as well as data concerning promotions of positions on a continual basis.

**11D1F** The District and Colleges shall provide faculty/staff in-service training on diversity.

**11D1F1** Each College's Human Resources Department is responsible for providing training to all staff on Equal Employment Opportunity programs and issues.

**11D1F2** The District's Equal Employment Opportunity Advisory Committee shall work cooperatively with Human Resources to effectively utilize Equal Employment Opportunity funds allocated to the District.

**11D1G** The District shall pursue hiring practices, which effect Equal Employment Opportunity policies.

**11D1G1** All employment practices will be based on job-related factors, considering seniority only where required by law.

**11D1G2** Recruitment for positions shall include verifiable efforts to attract a diverse applicant pool.

**11D1G3** The Human Resources Department, in consultation with the screening committee chair, shall determine the adequacy of the applicant pool relative to its protected class composition.

**11D1G4** Each College will maintain a standard procedure for selecting qualified applicants. College procedures must conform to the following:

**11D1G4A** Applicants will be screened by the screening committee for minimum qualifications.

**11D1G4B** To the extent possible, the screening committees are to represent the ethnic and cultural diversity of our community. All members shall vote on selections.

**11D1G4C** Screening committees are to be trained by a Human Resources Director or Manager in appropriate selection and interviewing techniques and in Equal Employment Opportunity programs and procedures. Selection and interviewing will conform to these

techniques and procedures. The Human Resources Director or Human Resources Manager shall work with the screening committee chair to ensure that the employment process complies with the District's Equal Employment Opportunity Policies.

**11D1G4D** A reasonable number of candidates as determined by the College President or designee are to be interviewed for each position.

**11D1G4E** All materials related to the selection process for a position shall be incorporated into a single file and be maintained for at least three (3) years.

### **11D2 Unlawful Discrimination**

All forms of discrimination and harassment are contrary to basic standards of conduct between individuals and are prohibited by state and federal law, as well as this policy, and will not be tolerated. The District is committed to providing an academic and work environment that respects the dignity of individuals and groups. The District shall be free of sexual harassment and all forms of sexual intimidation and exploitation. It shall also be free of other unlawful discrimination, including that which is based on any of the following statuses: national origin, religion, age, sex (gender), race, color, medical condition, ancestry, sexual orientation, marital status, physical or mental disability, or because he or she is perceived to have one or more of the foregoing characteristics. (Added December 17, 2009)

### **11D2A Sexual Harassment**

**11D2A1** The Board of Trustees of the Kern Community College District will not tolerate any behavior which constitutes sexual harassment of staff or students. It is the policy of the Kern Community College District that members of the college community, including visitors, guests, and contractors, may not sexually harass another person employed or contracted to do business by or on District property.

**11D2A1A** For the purpose of this policy, sexual harassment is defined as unwelcome sexual advances; requests for sexual favors; and/or physical conduct or oral/written communication of an intimidating, hostile, or offensive sexual nature where:  
Submission to such conduct is made either explicitly or implicitly a term or condition of employment or a student's status in a course, program, or activity; or  
Submission to or rejection of such conduct is used as a basis for employment decisions or as a basis for academic or other decisions affecting a student; or  
Such conduct has the purpose or effect of substantially interfering with an employee's work performance or a student's educational experience, or creates an intimidating, hostile or offensive working or academic environment.

**11D2A2** The Kern Community College District is committed to maintaining a working and educational environment free of sexual harassment.

**11D2A3** When an allegation of sexual harassment is brought to the attention of a supervisor, whether reported by the individual who is the subject of the alleged harassment, or by a witness, the supervisor shall report the allegation to the College Human Resources

Manager. The College Human Resources Manager shall investigate the allegation according to **Procedure 11D4A**.

**11D2A4** An employee or student may be subject to disciplinary action for violation of this policy.

### **11D3 Students and Staff with Disabilities**

**11D3A** The Kern Community College District shall adhere to the wording and the spirit of the Federal Americans with Disabilities Act (ADA) and accompanying laws and regulations that protect persons with disabilities in the State of California.

**11D3A1** The Kern Community College District shall consider or retain for employment all qualified individuals who satisfy the requisite skills, experience, education, and other job related requirements and can perform the essential functions of the position with or without reasonable accommodations. Pre-employment physicals or drug testing shall be conducted after an offer of employment has been made. This offer of employment is conditioned on the employee either passing these tests, or providing proof of disability [as defined in the Federal Americans with Disabilities Act (ADA)]. The District will provide reasonable accommodation upon request to applicants and employees in accordance with the Federal Americans with Disabilities Act (ADA).

**11D3A2** The District's goal is to remove barriers to ensure that all qualified employees or students with disabilities are not excluded from or denied the benefits of services, programs, or activities because District facilities are inaccessible or unusable. The District, in terms of existing structures or new construction, shall make every reasonable effort to remove existing architectural barriers to the disabled and/or provide architectural access.

**11D3A3** To the best of its ability, the District shall also furnish disabled students and staff with appropriate aids and instructional services in order to provide an equal opportunity to participate in the services, programs, or activities conducted by the Colleges.

**11D3A4** The District shall designate a coordinator for the ADA related activity at each of its Colleges. The coordinator shall monitor compliance efforts, investigate complaints, complete an initial ADA self-evaluation, and update this evaluation at least every three (3) years.

**11D3A5** The ADA complaint procedure to be utilized shall be that described in **Procedure 11D4A**.

### **11D3B Access to Electronic and Information Technology** (Added February 2, 2006)

**11D3B1** Whenever the Kern Community College District enters into a contract for the purchase, development, procurement, maintenance, or use of any electronic or information technology, the equipment or services purchased shall comply with, or be capable of conversion to meet accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended, and its implementing regulations. This requirement shall apply to software applications, operating systems, web-based intranet and internet information and

applications, telecommunication products, video or multimedia products, and self-contained closed products such as copiers, and desktop and portable computers.

**11D3B2** The District will negotiate with vendors with the intention of having them certify to the following provisions:

**11D3B2A** “The vendor warrants that the products or services to be provided under this agreement comply with, or be capable of conversion to meet, the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended, and its implementing regulations. Vendor agrees to respond promptly to and resolve any complaints regarding accessibility of its products or services that are brought to its attention. Vendor further agrees to indemnify and hold harmless the Kern Community College District from and against any claim arising out of its failure to comply with these requirements. Failure to comply with these requirements shall constitute a breach, and be grounds for termination of the agreement.”

#### **11D4 Discrimination Complaint Process**

**11D4A** The Kern Community College District shall provide an expeditious and effective process for resolution of complaints of unlawful discrimination by staff and students. This process, as described below, will apply to discrimination based on race, color, ancestry, religion, sex (gender), sexual orientation, national origin, age, ethnic group identification, and/or physical or mental disability. In accordance with State law, the District shall accept complaints filed within one (1) year of the alleged discrimination. See **Procedure 11D4A** of this Manual for the guidelines to the Unlawful Discrimination Complaint Process.

**11D4A1** Where complaints are filed directly with State and Federal agencies, the District Vice Chancellor, Human Resources or his/her designee will investigate and respond to the complaint in the manner provided by the agency and in accordance with the process provided for in **Procedure 11D4A**.

**11D4A2** When complaints are filed directly with the College or District, the Vice Chancellor, Human Resources shall be responsible for ensuring District compliance with rules and regulations adopted by the California Community Colleges and will assure that the College or District investigation shall be completed within ninety (90) calendar days.