

# PERALTA COMMUNITY COLLEGE DISTRICT

## Board of Trustees Agenda Report

For the Trustee Meeting Date of: February 26, 2008

ITEM TITLE: **Request Board Approval of Policy 3.04 – Sexual Harassment**

BOARD ACTION REQUESTED: District Employee Relations Department request Board approval of revised Policy 3.04 / Sexual Harassment, which addresses the prevention of sexual harassment for both students and employees. Due to specific references to sexual harassment in recent statutes in the California Education Code and with the Equal Employment Opportunity Commission, it is required that the California Community Colleges approve and implement a policy that specifically addresses the definition of and the commitment to its prevention in both the educational and work environments.

ITEM SUMMARY: The attached policy was reviewed and recommended by the Board Policy Review Committee and by the Strategic Planning and Policy Advisory Committee. This policy complies with Title VII, Education Code Section 66281.5 and Title V Section 59300 which includes the following components:

- a. A statement of Peralta Community College District's commitment to the prevention of sexual harassment in its programs, services and activities.
- b. The definition of sexual harassment excerpted from the Equal Employment Opportunity Commission language.
- c. A description of the two types of sexual harassment (Quid Pro Quo and Hostile Work Environment), including examples of each one that can be used for training purposes. The addition of more specific language has shown to be critical in defense of sexual harassment cases:

The most well-known California Community College District Court judgment was recently described at the October 2006 ACHRO conference: in the mid-1990's, San Bernadino Community College District was unsuccessful in winning a lawsuit brought forth by an alleged harasser, in part because the policy in effect at the time did not include language that was specific enough to provide sufficient explanation of sexually harassing conduct.

- d. A reference to the general responsibility of a designated District "compliance officer" and the prompt investigation of complaints. Specific procedures for the

receipt and investigation of sexual harassment and other forms of discrimination complaints are to be maintained as a separate District document.

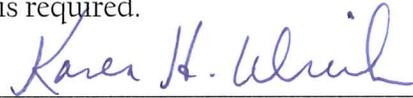
- e. A reference to the fact that appropriate disciplinary action will be taken against individuals whose conduct is proven to constitute sexual harassment.

FISCAL IMPACT: N/A

CONTRIBUTION TO PERALTA MISSION AND/OR BOARD GOALS: Approval of this policy will assist the District in maintaining its values and commitment to being accessible and supportive to all seeking knowledge and truth in the classroom and in all decision-making processes; being encouraging of open inquiry and expression; and adhering to high ethical standards.

GENERAL COUNSEL REVIEW: No legal review is required.

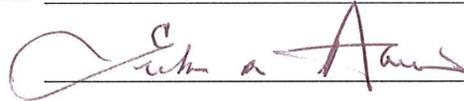
Prepared by: Karen Ulrich, Director of Employee Relations



Chief Financial Office: Thomas L. Smith, Vice Chancellor



Chancellor: Elihu Harris, Chancellor



## SEXUAL HARASSMENT POLICY 3.04

Peralta Community College District does not tolerate any form of sexual harassment and takes all reasonable steps to provide an educational and work environment that is free of discrimination and sexual harassment in all of its programs, services and activities.

The District recognizes that sexual harassment is a form of sex discrimination in violation of Title VII of the Civil Rights Act of 1964, and is committed to: a) full compliance with all current Federal and State laws regarding sexual harassment; b) employee and student orientation, training and available resources that promote understanding and compliance with District equal opportunity policy and complaint procedures; c) prompt and thorough investigations of sexual harassment complaints; and, d) the implementation of prompt, appropriate corrective action when sexual harassment allegations are proven.

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when this conduct explicitly or implicitly affects an individual's employment or educational environment, unreasonably interferes with an individual's work performance or learning, or creates an intimidating, hostile, or offensive work or learning environment. Sexual harassment can occur in a variety of circumstances, including but not limited to the following:

- The harasser can be a department or division manager, instructor, counselor, an agent of the District, a student, faculty or staff in another area, a co-worker, or a non-employee.
- A victim can be anyone reasonably affected by the offensive conduct.
- Unlawful sexual harassment may occur without economic injury to or discharge of the victim.

### Two Categories of Sexual Harassment

The definition of sexual harassment includes many forms of offensive behavior, including harassment of a person of the same gender as the harasser. There are two categories of sexual harassment:

1. Quid Pro Quo sexual harassment that occurs when an individual of authority makes educational or employment benefits conditional upon another person's willingness to engage in, or tolerate unwanted sexual conduct.

Examples of Quid Pro Quo sexual harassment can include, but are not limited to the following: offering favors of educational or employment benefits such as favorable performance evaluations, transfers or reassignments, reference letters, better course grades, more favorable shifts, assignments or job duties; preferred room assignments or other work locations, equipment or materials, in exchange for sexual favors or tolerance of sexually-charged behaviors.

2. Hostile Work Environment, or "third party" harassment that occurs when unwelcome conduct based on sex is sufficiently severe or pervasive so as to alter the conditions of an individual's learning or work environment, unreasonably interfere with an individual's academic or work performance, or create an intimidating, hostile or abusive work or learning environment. The victim must subjectively perceive the environment as hostile, and the harassment must be such that a reasonable person of the same gender would perceive the environment as hostile.

Examples of Hostile Work Environment sexual harassment can include, but are not limited to the following: unwanted sexual advances; actual or threatened retaliation; leering; making sexual gestures or displaying sexually suggestive objects, pictures, cartoons, or posters; making or using derogatory comments, epithets, slurs, or jokes; sexual comments including graphic comments about an individual's body; sexually degrading words used to describe an individual; or suggestive or obscene letters, notes, or invitations; physical touching or assault, as well as impeding or blocking movements.

## Peralta Community College District

### Consensual Relationships

Romantic or sexual relationships between individuals of the opposite or same sex are inappropriate and strongly discouraged when the individuals involved are faculty/student or supervisor/subordinate, having evaluative and/or direct supervisory responsibilities over the other, including responsibilities for grading, counseling, and/or other authority or provision of academic services, because of the potential conflict of interest.

A consensual relationship may cause an appearance of impropriety; lead to third party charges of favoritism, and/or negatively impact the productivity and morale of others who observe and must interact with the two parties in the learning or workplace environments. Such relationships may change, with the result that sexual conduct once welcome can become unwelcome and harassing.

### Prompt and Thorough Complaint Investigations

Through its designated Equal Opportunity compliance officer, the District will maintain current procedures for the investigation and resolution of sexual harassment complaints in a fair and consistent manner. The District considers such complaints as serious matters, and is committed to their prompt and thorough investigation, pursuant to current District procedures and required timelines.

Consistent with the legal rights of all parties, timely and appropriate disciplinary action will be taken against any individual whose behavior is proven to constitute sexual harassment, and the District will insure that any harm resulting from that harassment will be promptly corrected.