



# Human Resource Training for College Leaders

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# Building Respect and Trust as an Administrator

- Always be authentically you
- Share the success...own the failure
- Be kind to yourself...this work is HARD
- Lift others as you climb
- Be humble
- Be self-reflective not defensive when things don't work out
- The only ethics you control are your own!

# Dealing with people

- Teach people how to treat you...**every day**
- Set the standard for professionalism
- Be a relationship builder
- Be true to your word and always say what you mean
- Be direct but professional in your communications
- **Respond do not react!**

# Dealing with dysfunctional behavior

## **Three Cs of Curing Dysfunctional Behavior**

*By Roxanne Emmerich*

**Clarity**

**Consistency**

**Consequences**

# Clarity

- Make behavioral expectations impossible to misunderstand. Integrate them throughout your organization, employee handbooks, performance standards...

# Consistency

- The more you pick and choose which dysfunctional behaviors you will tolerate and which you won't, the more people will test your boundaries.
- Call it tight by adopting a zero-tolerance policy for dysfunctional behaviors.

# Consequences

- Appealing to the better angels of human nature is a fine start. When that fails—and on occasion, it will—have firm and systematic consequences in place.

The background features a dark green, chalkboard-like texture with faint white line drawings of various school and office supplies. On the left, there is a globe showing continents. Above it are several books, some with titles like 'Maths' and 'Science'. To the right, there are drawings of a microscope, a pencil, and other stationery items. The overall theme is education and professional tools.

# Performance Evaluations

Nuts and bolts

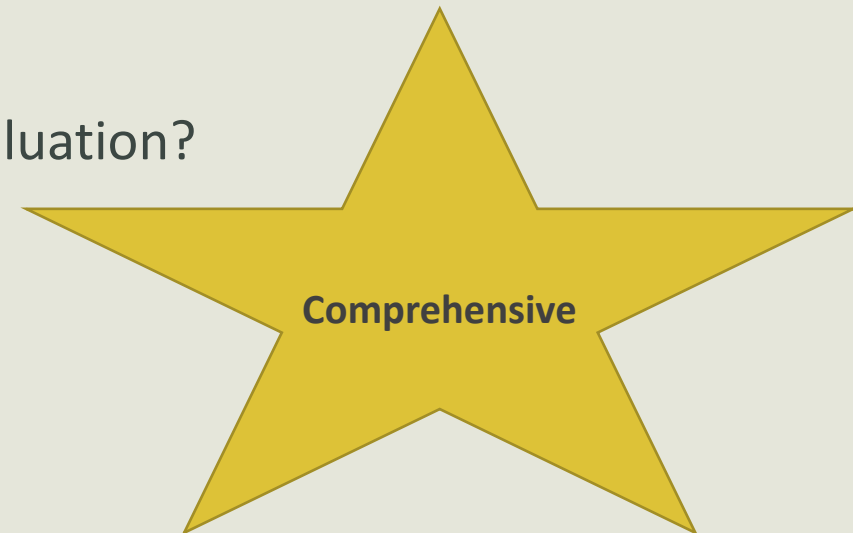


# Purpose of Evaluations

- Lets employees know **how they are doing**
- **Documents performance** for the time period since the last evaluation
- Recognizes **good work** and suggests ways to **improve and/or develop**
- Serves as a **warning** for below-standard work performance
- Becomes an employment record that expectations for improvement were provided to the employee
- **Supports disciplinary action** should it become necessary

# Preparation for an Evaluation

- What does the collective bargaining agreement say about evaluations?
- What is required by District policy?
- Are there specific forms that HR requires?
- What does the current job description say?
- What is the required timeline for submission of the evaluation?



## Be prepared to include the following...

- The performance issue(s) both positive/negative
- The impact of the negative issue(s) on the department/operation
- Specific examples (dates/times)
- Specific expectations
- Expected timeline for improvement (be reasonable)
- Offer for training if appropriate
- Date for a follow-up meeting to check-in

## Writing the Evaluation (cont.)

- Apply **evaluation criteria** consistently
- **Be specific** not general
- **Be clear and direct** rather than polite and circumspect
- **Set forth the facts** forming the basis for the conclusion
- **Include specific examples** and other relevant facts

## Writing the Evaluation (cont.)

- Discuss both positive and problematic performance issues
- Include specific duties and responsibilities not being met
- Be factual with evidence to support your claims
- Include objectives/goals
- Include accepted methods of performing duties/tasks
- Include specific duties and tasks needing improvement
- Be clear about expectations and how they need to improve

# Avoid “Shock and Awe”

- **No surprises** - nothing goes in an evaluation if you have not already met with and discussed the concern with the employee
- The evaluation should be a summary of what has **already been discussed** with the employee
- The employee should already be aware of issues or areas of improvement

# Preparing to Meet with the Employee to Discuss Evaluation

- Private space
- Put employee at ease
- Give them a copy of the evaluation
- Center on employee performance
- Be respectful but direct
- Listen to the employee – this is a two-way communication
- **DO NOT INTERRUPT!**

# Meeting with Employee to Discuss Evaluation

- Avoid argument – your feedback should be constructive
- Be open to facts you may not have considered
- Praise good performance
- Don't rush
- Focus on timely remediation
- Indicate confidence that they can improve
- Invite them to comment orally or in writing on the evaluation



# Asking HR for Help

- Engage HR early not LATE
- Expect HR to ask:
  - What are the performance issues?
  - Have you met with the employee to discuss these issues?
  - What have you done to assist the employee in being successful?
  - Are all of these issues documented in a performance evaluation?

If you don't have good answers...HR will not be happy with you

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# Employee Discipline and Dismissal

Avoiding Common Pitfalls

# Grounds for Dismissal

- Education Code Section 87732 for faculty
- Education Code Section 88013 for classified
- Workplace violence
- Drug/alcohol policy violations
- Harassment, retaliation, unlawful discrimination policies
- Dishonesty
- Unsatisfactory performance/incompetence
- Other violations of policy or employee misconduct

# Weingarten Rights

- Where there is a **reasonable belief** of discipline, the employee has the right to have a union representative present when being interviewed or asked questions
- The **reasonableness** will ultimately be based on an examination of the “totality of the circumstances present at the time, which may include the employee’s history and previous communications with management on matters related to the subject of the interview.” (Capistrano Unified School District (2017) PERB Decision No. 2532-C)
- When **disciplinary action is being imposed**

# Weingarten Notice

- Though the burden is on the employee to ask for representation, a good practice is to include the following in your email to the employee when requesting a meeting:

I am directing that you attend a meeting with me on December 1, 2022 to discuss \_\_\_\_\_. **Due to the nature of the meeting, please know that you are entitled to have a union representative present.**

- If the employee's request for a union representative is **denied** and you question them anyway, you will be committing an **unfair labor practice** and the employee has the right to refuse to answer.

# Classified

- Education Code Section 88013
  - Any employee designated as a permanent employee shall be subject to disciplinary action only for cause as prescribed by rule or regulation of the governing board, but the governing board's determination of the sufficiency of the cause for disciplinary action shall be conclusive.

# Classified

- Education Code Section 88013(d)
  - No Disciplinary Action For:
    1. Cause occurring before an employee becomes permanent
    2. Cause arising more than two years preceding date of filing notice of cause (unless cause was concealed or not disclosed by the employee)

# Question

- Sally has had difficulty coming to work on time and continues to make routine mistakes that are impacting the Department. Sally is in her 5<sup>th</sup> month of a 6<sup>th</sup> month probation. She provides you with a medical note placing her out under a doctor's care for the next 2 months. Can you terminate Sally's probation?



# Academic Employees

- Education Code Section 87732 establishes causes for discipline (not negotiable)
  - Immoral or unprofessional conduct
  - Dishonesty
  - Unsatisfactory performance
  - Evident unfitness
  - Physical or mental condition – unfitness to be able to instruct or associate with students
  - Persistent violation of State law and State or District regulations
  - Conviction of a felony involving “moral turpitude”

# Probationary Academic Employees (Tenure Track)

- Must use same disciplinary procedure as for tenured faculty
- Understand the distinction between non-renewal of a contract vs. discipline
- Contract Employee Release:
  - First Contract (Ed. Code 87608)
  - Second Contract (Ed. Code 87608.5)
  - Third Contract (Ed. Code 87609)
    - Note: the Third Contract is for two academic years
- Challenges to non-renewals of a contract, and denials of tenure, are processed as grievances under the terms of your collective bargaining agreement

# Academic Employees – FT Faculty

- Procedures are set forth in the Education Code
- 90-Day Notice (Education Code 87734)
  - Unsatisfactory performance
  - Unsatisfactory conduct
- Statement of charges served to employee
- Employee has 30 days to request a hearing
- If hearing is held Office of Administrative Hearings (OAH) assigns an ALJ

# 90-Day Notice of Unsatisfactory Performance

- Formal Notice to the faculty member of:
  - Unsatisfactory performance
  - Unsatisfactory conduct
- Written Notice to include language like:
  - You are either unable or unwilling to begin your class consistently on time
    - On February 12, 14, 21, 24, you....
  - You are either unable or unwilling to engage your colleagues with respect
    - Add specific examples
  - You are either unable or unwilling to submit your grades by the submission deadline
- Evidence:
  - Keep good records of prior attempts to remediate the performance concerns and cite these records as evidence

# 90-Day Notice of Unsatisfactory Performance

- Be specific about expectations for improvement
- Provide a specific timeline for improvement of at least 90 days (do not include summer or winter intersession)
- Include a specific plan for improvement

# Educational Administrators

- Employed by appointment or contract of up to 4 years (Ed. Code 72411)
- Absent an express appointment or contract, the manager/administrator serves at the pleasure of the governing board and can be let go at any time (Ed. Code 72411.5), unless your District has a policy that provides additional protections.

# Determining Appropriate Level of Discipline

- HR's considerations:
  - Offense
  - Longevity
  - Prior Discipline
  - Performance Record
  - How were others treated for same offense
  - Evidence
  - CBAs

# Skelly Meeting (Classified/Tenured Faculty)

- Once a charge packet is completed outlining the specific charges leading to suspension or termination, the employee is entitled to a **Skelly Meeting** to protect their due process rights.
- **Elements of the Skelly:**
  - Written Notice
  - Employee's Right to Respond via a "Skelly" Meeting or by Written Response
  - Skelly Officer Issues Recommendation
  - Imposition of Discipline
  - Right to Appeal to a Neutral Party



# Question

- Thomas is a 23 year employee in Admissions and Records with excellent performance and no prior discipline. You recently uncovered evidence that Thomas failed to enter his time off into the system even though you had directed him to do so in writing each time he called in sick. The total of hours of leave unaccounted for are 66 hours. Should Thomas be terminated?



# Unlawful Discrimination

# Federal and State Law Prohibit Discrimination Based on:

- Race/Color
- Ethnicity
- Ancestry/National Origin
- Disability/Medical Condition (physical & mental)
- Sex (Includes pregnancy, childbirth, breastfeeding, & related conditions)
- GINA
- Religion/Religious Creed (Includes dress and grooming practices)
- Marital Status
- Age (40 & Above)
- Sexual Orientation
- Gender Identity/Expression
- Military or Veteran Status
- Leave requests for family care, employee's own serious health condition, or pregnancy

# Forms of Unlawful Discrimination

- Disparate Treatment
  - Intentional
  - Harassment
  - Retaliation
- Disparate Impact
  - Unintentional
  - Policies, practices, rules, or systems

# Examples of Unlawful Discrimination

- Inequitable hiring practices
- Denial of promotion based on protected characteristics
- Demotion or transfer based on protected characteristics
- Refusal to grant what constitutes a “reasonable” accommodation under the law
- Employee teasing or ridicule based on protected characteristics
- Favoritism/preferential treatment based on protected characteristics



# Harassment and Hostile Work Environment

# Forms of Harassment

- Quid Pro Quo (Sexual Harassment)
- Hostile Work Environment
- Retaliation

# Quid Pro Quo Sexual Harassment

- Latin meaning, “This for That”
- Job benefits promised in exchange for sexual favors or denied if sexual favors not given.



# Hostile Work Environment

- Protected status
- Physical, verbal, visual, written, or environmental
- Objectively and subjectively offensive
- **Severe and/or pervasive** no longer the exclusive standard because a single incident may be sufficient (As of January 2019)

# Hostile Work Environment

- The individual does not need to prove that tangible productivity declined as a result of harassment, only that a “**reasonable person**” would find the harassment made it “**more difficult to do the job.**”
- Includes actions impacting
  - Job Performance/Evaluation
  - Opportunity for Advancement
  - Communication and Interactions
  - Vacation Denial/Approval
  - Job Assignments

# Examples of Harassing Conduct

- **Touching or grabbing**
- **Impeding someone's progress**
- **Hugging or pressing one's body against another**
- **Visual material**
- **Obscene messages on campus computers/posters/signs**
- **Teasing about one's sexuality or sexual orientation**
- **Gestures**
- **Shouting obscenities**
- **Stalking**
- **Persistently asking someone out**
- **Whistling, yelling, or rating people as they walk by**
- **Spreading rumors of a sexual nature**
- **Sexual requests or threats**
- **Sexual innuendoes**

# Retaliation

- Must have engaged in a **protected activity**
  - Filing a complaint
  - Participating in an investigation
- Adverse employment action
  - Following the protected activity
- Causal link



# Disability, ADA, FEHA

The Interactive Process and Failure to Accommodate

# The ADA

- **Actual Disability**. A person with a disability is a person who has a physical or mental impairment that substantially limits one or more major life activity; or
- **Record Of**. A person with a record of a physical or mental impairment that substantially limited a major life activity; or
- **Regarded As**. When an employer takes an action prohibited by the ADA because of an actual or perceived impairment that is not both transitory and minor

# Disability: Major Life Activity Impacts

- Caring for one's self
- Performing manual tasks
- Breathing, seeing, hearing, speaking
- Sleeping, eating, communicating, interacting with others, reading
- Learning, thinking, and concentrating
- Walking, sitting, standing, lifting, bending, reaching
- Participating in community services
- **Working**

# Disabled Employees in the Workplace

- Is the employee disabled?
- Does the employee's disability impact their ability to perform essential job functions? And how do you know?
- Do you have a doctor's note? Is it sufficient?
- Did the District provide an interactive process to determine if functional limitations impact the job and to explore a reasonable accommodation(s)?



# Formal Interactive Process

- A process of communicating with the employee, in good faith, in an effort to identify and implement a **reasonable accommodation** to address functional limitations of the employee that have been identified by a medical professional.
- Shared Responsibility: Requires that both the employer and the employee fully participate in a process to determine a reasonable accommodation.
- Employee is entitled to a union representative.

# How does an interactive process get initiated?

- Employee states they are unable to perform a task or job function due to a stated disability; or
- A medical document is received placing the employer on notice that functional limitations exist that impact the employee's ability to perform essential job functions; or
- Supervisor observes the employee cannot perform job functions due to what is perceived to be a disability (CAUTION!)

# Examples of Workplace Accommodations

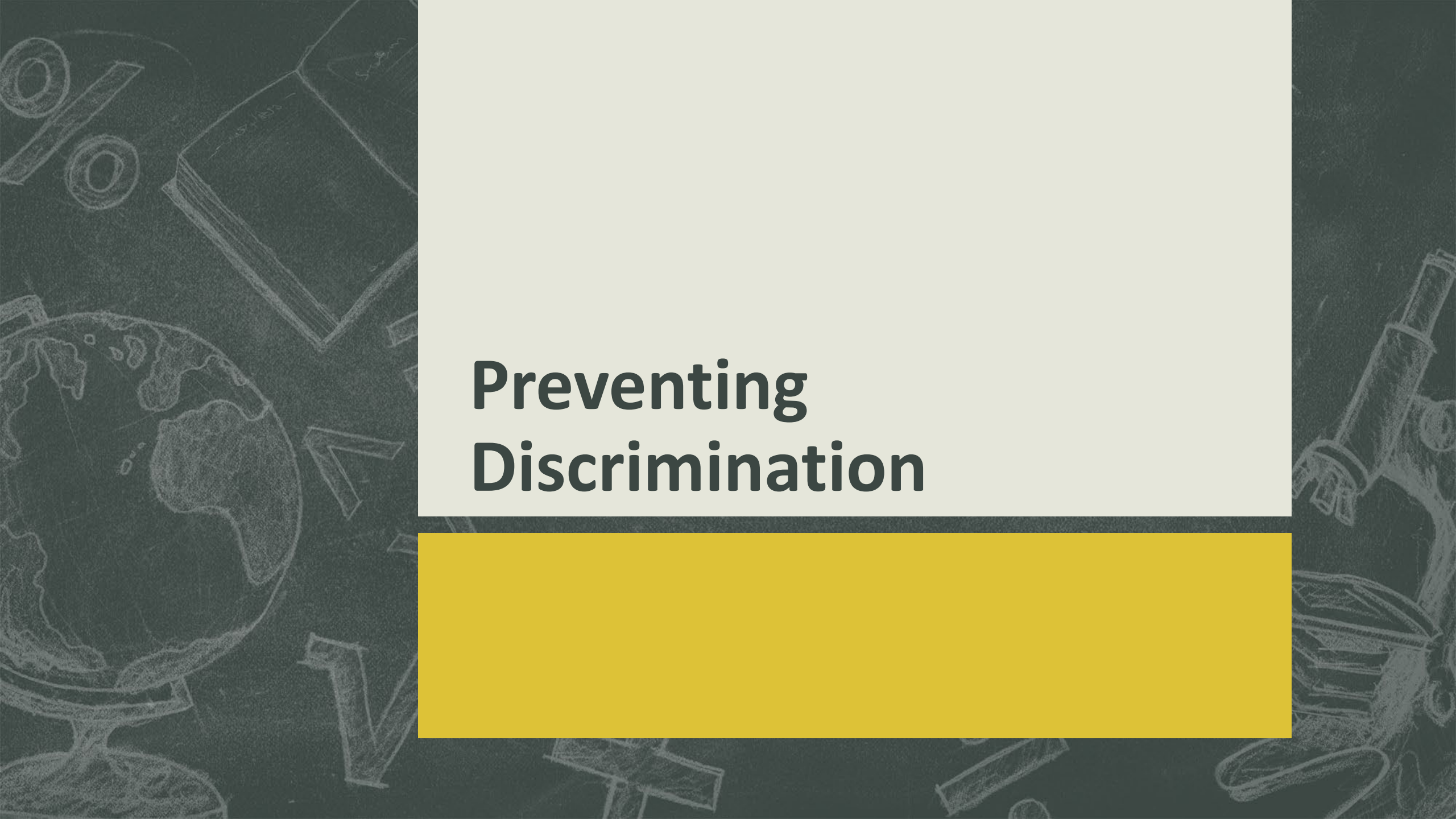
- Modifications to work area (sit/stand desk, ergonomic chair)
- A modified work schedule
- A temporary modified light duty assignment (not required but suggested)
- Paid or unpaid leaves of absence
- Transfer to a vacant position that is equal to or lower than the current job; and to which the employee meets minimum qualifications

# No Informal Accommodations

- Managers should never engage an employee's request for a temporary or informal accommodations
- All discussions of temporary or permanent accommodations must be documented and recorded
- Human Resources must be involved in any finalized accommodations

# FEHA: Failure to Accommodate

- Unlawful to fail to engage in a timely, good faith, interactive process.
- Unlawful to “fail to make reasonable accommodation for the known physical or mental disability of an applicant or employee” unless the employer can demonstrate that the accommodation would pose an undue hardship
- Consequences: fines, penalties, lawsuits



# Preventing Discrimination

## What you can do as a manager...

- Treat all students, employees, and customers respectfully
- Know that jokes you think are funny may be offensive to others
- Report all complaints to HR immediately
- Keep your personal life separate from your work
- Do not touch or hug anyone unless you have permission to do so...but even then **DON'T**
- **Do not use the workplace as your dating pool!**

## What you can do as a manager...

- Avoid using sexually explicit language in professional environments
- Avoid discussing your own sexual activity/dating life in the workplace
- Alert HR immediately if you become aware of behavior that could be considered sexually harassing or offensive
- Avoid consensual relationships with people at work



# Checklist for personal behavior in the workplace

- Could this behavior hurt or offend other employees or students if they were present?
- Could this behavior be considered harmful or harassing by an outsider?
- Could this behavior be sending out signals that invite harassing behavior on the part of others?
- Would you say it or do it with the Vice Chancellor of HR present?
- **A GOOD RULE TO FOLLOW:** *when in doubt...don't*

# Best ways to protect yourself...

- Follow District procedures
- Never play favorites
- Avoid compromising situations
- Report all complaints immediately
- Address inappropriate behavior immediately
- Monitor the educational and work environment
- Be a good role model
- Take all complaints seriously
- Make respect and inclusion core values

# Best advice...

Develop a ***consistent pattern*** of conduct that demonstrates a high regard for moral character and personal integrity



# Addressing Bullying and Abusive Conduct

# Bullying and Abusive Conduct

Workplace bullying is referred to as “abusive conduct,” and is defined by Government Code 12950.1 as conduct of an employer or employee in the workplace, with malice, that a reasonable person would find hostile, offensive, and unrelated to an employer’s legitimate business interests.

# Where does bullying and abusive conduct occur?

- At any level of an organization
- Bullies can be, and often are, managers and supervisor as well as co-workers

# Impacts of Bullying and Abusive Conduct

- Depression, absenteeism, self-harm, lower productivity, acting out against others in the workplace
- Low morale individually and within the Department

# Examples of Bullying and Abusive Conduct

- Constant and unfair criticism
- Purposeful withholding of information
- Creation of unnecessary barriers for someone to do their job
- Social bantering and teasing
- **Angry outbursts such as raising your voice to intimidate**
- **Insults** and behind-the-back put-downs
- Hostile glares and other intimidating gestures
- Malicious gossiping
- Monopolizing supplies and other resources
- **Aggressive e-mails or notes**
- Overt threats and aggression or violence



# Management Responsibilities

- Pay attention. If you see something...say something?
- Understand what abusive conduct looks like
- **Be a part of building a culture of respect and fairness**
- Understand District policies and procedures, and make sure you comply with them
- Always conduct yourself with courtesy and professionalism
- Hold employees accountable for their words and actions

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# Strategies of Effective Administrators

Tips from Human Resources

# Influencing Change

**Effective Leaders Use  
Influence Not Power**

## To Establish Trust A Leader Must Be...

- Fair minded and open
- Authentic
- An Honest Broker
- Trustworthy
- Thoughtful in words and actions
- Positive
- Well informed

# Effective Leaders Understand the Importance of Messaging

- Everything you put in email and text gets saved and shared
- **Respond** don't react
- Less is always more
- Be direct but thoughtful
- If it is particularly sensitive...have someone read it before you send it
- CCT – Clear, Concise, Thoughtful

# Effective Leaders....

- Listen to understand
- Insist on a culture of professionalism and respect throughout the organization
- Lead by example
- Surround themselves with people who can be honest
- Address issues early, often, and communicate directly
- Set clear expectations for the department and employees

# Effective Administrators Will...

- Establish yourself and your reputation
- Build trust in all relationships
- Hold people accountable for what they do and say
- Model good behavior
- Always communicate directly but respectfully
- Be seen as honest, transparent, and thoughtful
- Know their areas of oversight very well
- Surround themselves with people smarter than them

# Remember

- We don't get to choose our struggles but we do choose how **we respond**
- Avoiding hard things just makes things **HARDER**
- Teach people how to treat you **EVERYDAY**
- Don't water dead plants
- There is no performance improvement plan for stupid so **be smart!**
- **Laugh often...this work is HARD!**



# Be Kind to Yourself...

- Spend time with people who fill your tank
- Manage your stress
- Get outside when you can
- Plan walking meetings
- Take back control of your phone and email
- Place controls on your calendar
- Be present when you are home or with family and friends
- Be forgiving of yourself when things don't go right

# Thank you!

