

BOARD POLICY
San Mateo County Community College District

Subject: 2.25 ~~Policy on Sexual Harassment~~ Prohibition of Harassment
Revision Date: ~~12/02 xx/xx~~
Policy References: Education Code Sections 212.5; 44100; 66252; 66281.5; Government Code Section 12950.1; Title VII of the Civil Rights Act of 1964, 42 U.S.C.A. § 2000e

- ~~1. It is the policy of the San Mateo County Community College district to provide an educational and work environment free from unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct or communications constituting sexual harassment. The District promotes a zero tolerance for behaviors of both employees and non-employees which constitute sexual harassment in its educational and workplace environment.~~

~~All forms of 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, including acts of sexual violence. It shall also be free of other unlawful harassment, including that which is based on any of the following statuses: race, religious creed, color, national origin, ancestry, physical disability, mental disability, genetic information, medical condition, marital status, sex, gender, gender identification, gender expression, age, or sexual orientation of any individual, or because an individual is perceived to have one or more of the foregoing characteristics.~~

- ~~2. This policy defines sexual harassment and sets forth a procedure for the investigation and resolution of complaints of sexual harassment by or against any faculty member, staff member, Board member or student within the District. Sexual harassment violates State and Federal laws, as well as this policy, and will not be tolerated. It is also illegal to retaliate against any individual for filing a complaint of sexual harassment or for participating in a sexual harassment investigation. Retaliation constitutes a violation of this policy.~~

~~The District seeks to foster an environment in which all employees and students feel free to report incidents of harassment without fear of retaliation or reprisal. Therefore, the District also strictly prohibits retaliation against any individual for filing a complaint of harassment or for participating in a harassment investigation. Such conduct is illegal and constitutes a violation of this policy. All allegations of retaliation will be swiftly and thoroughly investigated. If the District determines that retaliation has occurred, it will take all reasonable steps within its power to stop such conduct. Individuals who engage in retaliatory conduct may be subject to disciplinary action, up to and including termination or expulsion. Engaging in intimidating conduct or bullying against another employee through words or actions, including direct physical contact; verbal assaults, such as teasing or name-calling; social isolation or manipulation; and cyber bullying are strictly forbidden.~~

- ~~3. Any student or employee who believes that he or she has been harassed, bullied or retaliated against in violation of this policy and wishes to report such incidents should use the procedure provided by his/her supervisor or the office of the Vice President of Student Services. Supervisors are mandated to~~

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report all incidents of harassment and retaliation that come to their attention to the Vice Chancellor of Human Resources and Employee Relations.

- ~~3.4.~~ This policy applies to all aspects of the academic and work environment, including but not limited to classroom conditions, grades, academic standing, employment opportunities, scholarships, recommendations, disciplinary actions, and participation in any District activity. In addition, this policy applies to minors as well as adults, and to all terms and conditions of employment, including but not limited to hiring, placement, promotion, disciplinary action, layoff, reemployment, transfer, leave of absence, training opportunities, assignment of work hours and projects, and compensation.
5. The Chancellor shall ensure that the institution undertakes education and training activities to counter discrimination and to prevent, minimize and/or eliminate any hostile environment that impairs access to equal education opportunity or impacts the terms and conditions of employment.
6. The Chancellor shall establish procedures that define harassment throughout the District. The Chancellor shall further establish procedures for employees, students and other members of the District community that provide for the investigation and resolution of complaints regarding harassment and discrimination. All participants are protected from retaliatory acts by the District, its employees, students and agents.
- ~~9.7.~~ The District ~~will~~ shall promptly investigate and resolve complaints of sexual harassment and, ~~when there is a finding of sexual harassment,~~ will insure assure that any harm resulting from ~~that the~~ harassment will be promptly redressed by restoring any lost benefit or opportunity. All participants are protected from retaliatory acts by the District, its employees, students, and agents.
8. This policy and related written procedures shall be widely published and publicized to administrators, faculty, staff, and students, particularly when they are new to the institution. They shall be available for students and employees on the District's public website.
9. It is the responsibility of each District employee and student to maintain a level of conduct that is compliant with this policy. Employees who violate the policy and procedures may be subject to disciplinary action up to and including termination. Students who violate this policy and related procedures may be subject to disciplinary measures up to and including expulsion.
- ~~4.~~ It is the responsibility of each District employee and student to maintain a level of conduct that is in compliance with District policy. Employees who violate this policy may be subject to disciplinary action up to and including termination. Students who violate this policy may be subject to disciplinary measures up to and including expulsion.
- ~~5.~~ For purposes of this policy, sexual harassment is defined as unsolicited, unwelcome sexual advances, requests for sexual favors, and/or other conduct of a sexual nature, characteristically persistent, pervasive and/or sufficiently severe, when one or more of the following conditions exist:
 - ~~• submission to the conduct is made either explicitly or implicitly a term or condition of an individual's employment, academic status, or progress;~~
 - ~~• submission to, or rejection of, the conduct by the individual is used as a basis for employment, academic or professional development decisions affecting the individual;~~

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- ~~the conduct has the purpose or the effect of unreasonably interfering with an individual's work or academic performance or of creating an intimidating, hostile or offensive work or educational environment;~~
- ~~submission to, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors and awards, programs, or activities available at or through the District.~~

6. ~~This definition encompasses two categories of sexual harassment:~~

- a) ~~"Quid pro quo" sexual harassment which occurs when a person in a position of authority makes educational or employment benefits conditional upon an individual's willingness to engage in or tolerate unwanted sexual conduct.~~

~~Examples of "quid pro quo" sexual harassment can include, but are not limited to: offering favors; educational or employment benefits, such as transfers or reassignments; favorable performance evaluations; support for transfers or reassignments; job duties, work shifts, reclassifications or changes to salary; favorable room assignments, equipment or materials in exchange for sexual favors.~~

- b) ~~"Hostile environment" or "third party" sexual harassment which 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.~~

7. ~~Sexual harassment can consist of any form or combination of verbal, physical, visual or environment conduct. It need not be explicit or specifically directed at the victim. Sexually harassing conduct can occur between people of the same or different genders. The District standard for determining whether conduct constitutes sexual harassment is whether a reasonable person of the same gender as the victim would perceive the conduct as harassment based on sex.~~

~~Conduct such as the following may constitute sexual harassment if any of the other elements of sexual harassment, as defined in section 4 above, are present:~~

~~Verbal:~~

~~Inappropriate or offensive remarks, slurs, jokes or innuendoes based on sex. This may include, but is not limited to, inappropriate comments regarding an individual's body, physical appearance, attire, sexual prowess, marital status or sexual orientation; unwelcome flirting or propositions; demands for sexual favors; verbal abuse, threats or intimidation of a sexual nature; or sexist, patronizing or ridiculing statements that convey derogatory attitudes about a particular gender.~~

~~Physical:~~

~~Inappropriate or offensive touching, assault, or physical interference with free movement. This may include, but is not limited to, kissing, patting, lingering or intimate touches grabbing, pinching, staring, unnecessarily brushing against or blocking another person, whistling or sexual gestures.~~

2.25 Prohibition of Harassment (continued)

~~Visual or Written:~~

~~The display or circulation of offensive sexually oriented visual or written material. This may include, but is not limited to, posters, cartoons, drawings, graffiti, reading materials, computer graphics or electronic media transmissions.~~

~~Environmental:~~

~~A work or academic environment that is permeated with sexually oriented talk, innuendo, insults or abuse not relevant to the work being performed, or the subject matter of the class. A hostile environment can arise from an unwarranted focus on sexual topics or sexually suggestive statements in the classroom. An environment may be hostile if unwelcome sexual behavior is directed specifically at an individual or if the individual merely witnesses unlawful harassment in the immediate surroundings. The determination of whether an environment is hostile is based on the totality of the circumstances, including such factors as the frequency of the conduct, the severity of the conduct, whether the conduct is humiliating or physically threatening, and whether the conduct unreasonably interferes with an individual's work or learning.~~

- ~~8.—When there are evaluative and/or direct supervisory responsibilities of one individual over another, romantic or sexual relationships between two individuals are inappropriate and strongly discouraged because of the inherent imbalance of power and potential for exploitation in such relationships.~~

~~A conflict of interest may exist if the employee must evaluate a student's or other employee's work or make decisions which affect the student or employee. The relationship may: create an appearance of impropriety; lead to charges of favoritism by other students or employees; and negatively impact the productivity and morale of others who observe and must interact with the two parties within the workplace or educational environment. A consensual sexual relationship may change, with the result that sexual conduct that was once welcome becomes unwelcome and harassing.~~

~~An employee or student whose consensual relationship interferes with the ability of another employee to perform his/her job (or student to perform in the educational environment) may be subject to disciplinary action. Interference with employee or student performance may be documented by a failure to satisfactorily perform, or by the receipt of a valid complaint by a third party.~~

- ~~10. The District forbids any form of sexual harassment and, when there is a finding of sexual harassment, will insure that any harm resulting from that harassment will be promptly redressed by restoring any lost benefit or opportunity.~~

- ~~11. This policy will be disseminated to all employees annually, and shall be provided to each new employee. It will also be posted in a prominent place at each College and in the Chancellor's Office and will become a part of employee handbooks, online communications, and other applicable staff manuals. Copies of this policy will also be made available to students and will be printed, in whole or in part, in student handbooks and/or other student publications as appropriate.~~

- ~~12.—Any person who believes that he/she has been subjected to sexual harassment in the District may obtain a copy of the District's Policy and Procedures for Unlawful Discrimination and Sexual Harassment complaints by contacting the Office of Human Resources, or Vice President for Student Services at each College. The District provides both informal and formal complaint resolution procedures; considers as serious matters all complaints of sexual harassment; is committed to full investigation and timely resolution; and takes steps to ensure that persons complaining of sexual harassment will not be subjected to retaliation or reprisals of any kind.~~

2.25 Prohibition of Harassment (continued)

~~Pursuant to Title V of the California Code of Regulations, the designated Officer for employee and student complaints of sexual harassment is the Vice Chancellor of Human Resources and Employee Relations. Copies of the complaint procedures, including procedures for both informal and formal resolution, can be obtained by contacting the Office of Human Resources or Vice Presidents for Student Services.~~

- ~~13. Students should promptly notify their division/department administrator, counselor, chief executive officer, or Vice President for Student Services (who refer the complaints to the Vice Chancellor of Human Resources and Employee Relations), and employees should promptly notify their immediate supervisor, division/department administrator, chief executive officer, or Human Resources immediately to report any conduct which may constitute sexual harassment on the part of other employees, students, or other persons.~~
- ~~14. Once the complaint has been made, the investigation will be conducted by the appropriate Title IX Officer immediately and will be acted upon in accordance with District Rules and Regulations. All matters related to complaints, investigations, findings and corrective actions will be held in strictest confidence.~~