

2.25 Prohibition of Harassment

1. 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. 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, medical condition, marital status, sex, age, or sexual orientation of any individual, or because an individual is perceived to have one or more of the foregoing characteristics.
2. 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 are subject to disciplinary action, up to and including termination or expulsion.
3. Any student or employee who believes that he or she has been harassed or retaliated against in violation of this policy should immediately report such incidents by following the procedures provided by his/her supervisor or the office of the Vice President of Student Services. Supervisors are mandated to report all incidents of harassment and retaliation that come to their attention.
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, re-employment, 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. 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 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
 - 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;

2.25 Prohibition of Harassment (continued)

- 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.

7. 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.

8. 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 sections 6 and 7, are present:

Verbal:

Inappropriate or offensive remarks, slurs, jokes or innuendos 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.

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.

2.25 Prohibition of Harassment (continued)

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.

9. 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 decision 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 shall promptly investigate and resolve complaints of harassment and will assure that any harm resulting from 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.
11. 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 in all administrative offices.
12. 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.

Reference: Education Code Sections 212.5; 44100; 66252; 66281.5; Government Code 12950.1; Title VII of the Civil Rights Act of 1964, 42 U.S.C.A. § 2000e

Rev. 11/09)