



## SEXUAL HARASSMENT AND NON-DISCRIMINATION (Form 05)

### AP 7102 Prohibition of Harassment: Employees

References: Education Code Sections 212.5, 44100, and 66281.5; Title 5, Sections 59320 et seq; Title VII of the Civil Rights Act of 1964; 42 U.S. Code, Section 2000e; Title IX Education Amendments of 1972

#### General Provisions

The District is committed to providing an academic and work environment free of unlawful harassment. This procedure defines sexual harassment and other forms of harassment on campus, and sets forth a procedure for the investigation and resolution of complaints of harassment by or against any staff or faculty member.

#### Definitions

**General Harassment** – Harassment based on race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, gender, gender identity, gender expression, age, or sexual orientation of any person, or the perception that a person has one or more of these characteristics is illegal and violates District policy. Gender-based harassment does not necessarily involve conduct that is sexual. Any hostile or offensive conduct based on gender can constitute prohibited harassment. For example, repeated derisive comments about a person's competency to do the job, when based on that person's gender, could constitute gender-based harassment. Harassment comes in many forms, including, but not limited to, the following conduct:

- **Verbal:** Inappropriate or offensive remarks, slurs, jokes or innuendoes based on a person's race gender, sexual orientation, or other protected status. 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; or sexist, patronizing, or ridiculing statements that convey derogatory attitudes based on gender, race nationality, sexual orientation or other protected status.
- **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, leering, staring, unnecessarily brushing against, or blocking another person, whistling or sexual gestures. It also includes any physical assault or intimidation directed at an individual due to that person's gender, race, national origin, sexual orientation, or other protected status.
- **Visual or Written:** The display or circulation of visual or written material that degrades an individual or group based on gender, race, nationality, sexual orientation, or other protected status. This may include, but is not limited to, posters, cartoons, drawings, graffiti, reading materials, computer graphics, or electronic media transmissions.

- **Environmental:** A hostile work environment exists where it is permeated by sexual innuendo; insults or abusive comments directed at an individual or group based on gender, race, nationality, sexual orientation, or other protected status; or, gratuitous comments regarding gender, race, sexual orientation or other protected status that are not relevant to the subject matter of the class or activities on the job. A hostile environment can arise from an unwarranted focus on sexual topics or sexually suggestive statements in the classroom or work environment. It can also be created by an unwarranted focus on, or stereotyping of, particular racial or ethnic groups, sexual orientations, genders or other protected statuses. An environment may also be hostile toward anyone who merely witnesses unlawful harassment in his/her immediate surroundings, although the conduct is directed at others. 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.

**Sexual Harassment** – In addition to the above, sexual harassment consists of unwelcome sexual advances, requests for sexual favors, and other conduct of a sexual nature when:

- submission to the conduct is made a term or condition of an individual's employment;
- submission to, or rejection of, the conduct by the individual is used as a basis of employment affecting the individual;
- the conduct has the purpose or effect of having a negative impact upon the individual's work, or of creating an intimidating, hostile, or offensive work environment; or,
- 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, programs, or activities available at or through the community college.

This definition encompasses two kinds of sexual harassment:

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

**"Hostile environment"** sexual harassment occurs when unwelcome conduct based on a person's gender is sufficiently severe or pervasive to alter the conditions of an individual's work environment, unreasonably interfere with an individual's work performance, or create an intimidating, hostile, or abusive work 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.



Sexually harassing conduct can occur between people of the same or different genders. The 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.

Examples -- Harassment includes, but is not limited to the following misconduct:

- **Verbal:** Inappropriate or offensive remarks, slurs, jokes, or innuendoes based on a person's protected status, including but not limited to 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, leering, staring, unnecessarily brushing against, or blocking another person, whistling, or sexual gestures.
- **Visual or Written:** The display or circulation of offensive sexually- oriented or other discriminatory 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:** An academic or work environment that is permeated with racially or sexually-oriented talk, innuendo, insults, or abuse not relevant to the subject matter of the class or activities on the job. A hostile environment can arise from an unwarranted focus on sexual topics or sexually suggestive statements in the classroom or work environment. An environment may be hostile if unwelcome sexual behavior or other harassing behavior based on a protected status is directed specifically at an individual or if the individual merely witnesses unlawful harassment in his/her 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.

### **Consensual Relationships**

Romantic or sexual relationships between supervisors and employees, or between administrators, faculty, or staff members and students are discouraged. There is an inherent imbalance of power and potential for exploitation in such relationships. A conflict of interest may arise if the administrator, faculty, or staff member must evaluate the student's or employee's work or make decisions affecting the employee or student. The relationship may create an appearance of impropriety and lead to charges of favoritism by other students or employees. A consensual sexual relationship may change, with the result that sexual conduct that was once welcome becomes unwelcome and harassing. In the event that such relationships do occur, the District has the authority to transfer any involved employee to



eliminate or attenuate the supervisory authority of one over the other, or of a teacher over a student. Such action by the District is a proactive and preventive measure to avoid possible charges of harassment and does not constitute discipline against any affected employee.

### **Complaint Procedure**

Allegations of sexual harassment will be reviewed pursuant to the complaint procedure set forth under Administrative Procedure 7101 - Discrimination Complaint Procedure: Employees and Job Applicants. The terms "discrimination" or "unlawful discrimination" as used in Administrative Procedure 7101 shall include sexual harassment. [For student discrimination complaints, please refer to AP 7101.1].

### **Academic Freedom and Sexual Harassment**

The District is committed to creating an environment where there is the full and free discussion of ideas and where students are free from a hostile learning environment. In general, works of art and literature, readings and other written, auditory, or visual course materials, including lectures and discussions, which are used in a learning context or which are a part of academic or cultural programs, would not violate the prohibition against creating a hostile learning environment for students.

Board Approved: May 2, 2017

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### **Manager of Human Resources/Staff Diversity and Title IX Coordinator**

Strict timelines apply to most complaint procedures. If any individual wishes action to be taken on the complaint, it is critical that the information be submitted in a timely manner.

Ms. Brenda Fink  
Manager of Human Resources/Staff Diversity and Title IX Coordinator  
Administration Building, AD 144  
(626) 914-8830



## SEXUAL HARASSMENT AND NON-DISCRIMINATION (Form 05)

### BP 7101 Non-Discrimination

References: Education Code Sections 66250 et seq., 72010 et seq., and 87100 et seq.; Government Code Sections 12926.1 and 12940 et seq.; Title 5, Sections 53000 et seq. and 59300 et seq.

#### General Provisions

The District is committed to equal opportunity in educational programs, employment, and all access to institutional programs and activities.

The District, and each individual who represents the District, shall provide access to its services, classes, and programs without regard to national origin, religion, age, sex or gender, race, color, medical condition, ancestry, sexual orientation, marital status, physical or mental disability, use of family and medical care leave, genetic information, military or veteran status, gender identity, gender expression, or because he or she is perceived to have one or more of the foregoing characteristics, or based on association with a person or group with one or more of these actual or perceived characteristics.

The Superintendent/President shall establish administrative procedures that ensure all members of the college community can present complaints regarding alleged violations of this policy and have their complaints heard in accordance with the Title 5 Regulations and those of other agencies that administer state and federal laws regarding nondiscrimination.

No District funds shall ever be used for membership, or for any participation involving financial payment or contribution on behalf of the District or any individual employed by or associated with it, to any private organization whose membership practices are discriminatory on the basis of national origin, religion, age, sex or gender, race, color, medical condition, ancestry, sexual orientation, marital status, physical or mental disability, use of family and medical care leave, genetic information, military or veteran status, gender identity, gender expression, or because he or she is perceived to have one or more of the foregoing characteristics, or based on association with a person or group with one or more of these actual or perceived characteristics.

Board Approved: 10/21/14; Revised: 07/19/16

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I, (Print or Type Employee Name) \_\_\_\_\_, hereby acknowledge that I have read this notification regarding AP 7102 – Prohibition of Harassment: Employees and BP 7101 – Non-Discrimination.

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Employee Signature

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Date