

Procedure 1-2: Employee Harassment

1. INTRODUCTION

The purpose of this procedure is to implement the College's policy against employee harassment and discrimination.

2. DEFINITIONS:

(A) **Harassment based on protected status:** San Jacinto College provides an environment free of harassment and discrimination based on race, creed, color, national origin, citizenship status, age, disability, pregnancy, religion, gender, sexual orientation, gender expression or identity, genetic information, marital status, or veteran status. Prohibited harassment includes but is not limited to verbal, written communication or physical conduct, based on a protected characteristic, that is severe or pervasive and:

- i. Creates an intimidating or offensive work environment;
- ii. Unreasonably interferes with an individual's work performance; or
- iii. Otherwise adversely affects an individual's employment opportunities.

(B) **Sexual harassment** includes, but is not limited to, unwelcome sexual advances, unwelcome requests for sexual favors, unwelcome spoken or written comments of a sexual nature, and unwelcome physical contact or touching of a sexual nature. Conduct is considered unwelcome when it is not solicited by an individual and is regarded by him or her as unwanted or offensive. Sexual harassment is wrongful regardless of whether the parties are of the same sex or of the opposite sex. Sexual harassment occurs when:

1. Submission to such conduct is explicitly or implicitly made a term or condition of employment or participation in other college activities;
2. Submission to or rejection of such conduct is used as a basis for personnel decisions that affect the individual who has been subjected to sexual advances; and/or
3. Such conduct has the effect of interfering with the individual's work performance or creating an intimidating, hostile, or offensive work.

In evaluating a harassment or discrimination complaint, the College shall consider the totality of circumstances, including whether the alleged conduct is incidental and isolated or whether it has become severe or pervasive.

(C) What is Domestic/Dating Violence?

Domestic violence can be defined as a pattern of abusive behavior that is used by an intimate partner to gain or maintain power and control over the other intimate partner. Domestic violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. This can include any behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, threaten, blame, injure, or wound someone.

Dating violence is defined as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship is determined based on the following factors:

- Length of the relationship
- Type of the relationship
- Frequency of interaction between the persons in the relationship

Resources for Victims of Domestic/Dating Violence

3. GENERAL POLICY

Conduct that constitutes harassment or discrimination will violate these procedures whether it occurs during working hours, during a lunch break, or at off-campus locations where College employees are working or engaged in activities on behalf of the College. After-hours conduct, such as telephoning an employee at home, may violate this procedure if the subject matter or purpose of the conduct is work-related or if the conduct adversely impacts or is likely to impact working relationships or the work environment.

EXAMPLES OF PROHIBITED CONDUCT

Examples of prohibited conduct include, but are not limited to, the following:

- A. Making any decisions or taking any actions regarding employment opportunities, benefits or privileges, to create discriminatory work conditions, or to use discriminatory evaluative standards in employment if the basis of that discriminatory treatment is, in whole or in part, due to the employee's protected status.
- B. Requests for sexual favors accompanied by implied or overt promises of preferential treatment regarding an individual's employment status;
- C. Requests for sexual favors accompanied by implied or overt threats of retaliation or other adverse consequences if the recipient does not comply;
- D. Demeaning jokes, slurs or offensive comments about the body, appearance, or clothing because of the person's protected status;
- E. Display of offensive and/or demeaning explicit graphics, cartoons, pictures, photographs, or objects that are unrelated to the workplace or course of study and are exploitative or demeaning in nature;
- F. Use of electronic equipment and devices, including computer networks, cell phones, and copy machines, to transmit or display objectively offensive material or messages of a sexual nature;
- G. Unwanted flirtation or repeated requests for social/sexual encounters or favors that the recipient deems unwelcome;
- H. Suggestive or unwelcome physical contact, such as grabbing, touching, or patting;
- I. Sexually offensive comments and gestures;
- J. Acts of intimidation, threats of violence, physical assault and physical acts of aggression or damage to another's property when motivated by the individual's protected status;
- K. Degrading names or demeaning statements that are based on the individual's protected status; and
- L. Spreading rumors about a person's sexual activities or circulating or posting cartoons or other printed matter that disparages others because of their protected status.

FRATERNIZATION AND CONSENSUAL RELATIONSHIPS

The integrity of the educational mission of the College is demonstrated by the trust, respect, dignity, and equality in faculty, student, and staff relationships. It is fundamental that the professional responsibilities of faculty and staff members be carried out in an atmosphere that does not compromise these principles.

Amorous or sexual relationships between individuals of the same or the opposite sex where one has supervisory, decision-making, or other evaluative responsibility for the other may create conflicts of interest and perceptions of undue advantage. Additionally, there are special risks in any amorous or sexual relationship between individuals in unequal positions of power, i.e. teacher and student, supervisor and employee. Such relationships are inherently suspect, may undermine the integrity of the supervision and evaluation provided, may impair workplace harmony and productivity, and may lead to conflicts of interest and harassment claims.

Accordingly, as noted below, the following relationships are prohibited or discouraged by the San Jacinto College District:

A. Between faculty members and students.

- i. **Faculty members** are prohibited from seeking or engaging in an amorous or sexual relationship with a **student** when the student is enrolled in a course being taught or supervised by the faculty member or when the student is being supervised, coached, or advised by the faculty member in connection with a College-related activity (e.g., athletics, clubs, and academic competitions).
- ii. **Faculty members** are discouraged from seeking or engaging in amorous or sexual activity or relationships with **students** in the same department or program as the faculty member. If such a relationship exists or develops, the faculty member has the professional and ethical responsibility to remove himself or herself from any decision-making that may reward or penalize the student involved.

B. Between staff /administrators and students.

- i. **Staff and administrators** are prohibited from seeking or engaging in an amorous or sexual relationship with a **student** under **his or her direct or indirect supervision**. This prohibition applies to employed students over whom one has supervisory authority for job performance or academic work, e.g., Federal Work Study students.
- ii. **Staff and administrators** are discouraged from seeking or engaging in sexual activity or amorous or sexual relationships with **students** in the **same department as the staff member**. If such a relationship exists or develops, the staff member has the professional and ethical responsibility to remove himself or herself from any decisions that may reward or penalize the student involved.

C. Between employees.

- i. Employees in a supervisory position shall keep their relationships with subordinates on a professional basis and shall exercise good judgment by avoiding amorous or sexual relationships with individuals who report, directly or indirectly, to the supervisor.
- ii. Employees shall keep their relationships with co-workers in the workplace on a professional basis and shall exercise good judgment in the employment context. The College discourages amorous or sexual relationships that may interfere in the workplace between employees, as they may lead to complaints of harassment or may present a conflict of interest. Harassment complaints related to relationship concerns are taken seriously and addressed through the dispute resolution and complaint process.

INFORMAL ASSISTANCE AND DISPUTE RESOLUTION

Any individual may seek advice or information on matters related to this policy without having to lodge a formal complaint by contacting the Employee Relations Office in the Human Resources Department.

Any employee of the San Jacinto College District community alleging harassment or discrimination prohibited by this policy is encouraged to seek informal resolution of his/her complaint. Complaints may be processed informally, through leadership or their designees, or formally, through the established procedure written below. Informal resolution is not a prerequisite to filing a formal complaint.

Informal resolution is useful in situations in which the alleged conduct is not severe or pervasive and the facts are largely undisputed. Informal resolution may include actions such as coaching the aggrieved party on how to directly address the offensive situation, or mediating an understanding between the aggrieved party and the alleged offender.

Should an investigation reveal that the allegations were knowingly false or made in bad faith, disciplinary action against the complainant may be imposed.

CONFIDENTIALITY

To the extent permitted by law, the College will maintain the confidentiality of records related to investigations of complaints based on discrimination, harassment and sexual violence.

PROMPT REPORTING IS ENCOURAGED

Employees who are subjected to conduct in violation of Board policy and these procedures are encouraged to report the conduct at the earliest possible stage, before the conduct becomes severe or pervasive so that the College can take appropriate action to remedy the offensive conduct. A delay in reporting may impair the College's ability to investigate, gather evidence, or take corrective action.

LOGGING A FORMAL COMPLAINT OF HARASSMENT OR DISCRIMINATION

A.

- i. Complaints shall be in writing and signed, and shall describe all incident(s) considered by the complainant to be harassment or discrimination. Complaints shall identify any relevant dates or witnesses. If the complainant is unable to prepare a written complaint or needs a reasonable accommodation in order to communicate his or her complaint, the complainant may obtain assistance from the Employee Relations Office in the Human Resources Department to initiate the complaint.
 - a. If the alleged offender is a **student**, the **aggrieved employee** shall submit the complaint to the Vice President of Human Resources, the Director of Employee Relations, or their designees. Human Resources will then notify the Associate Vice Chancellor of Student Services, and work with that person to address the complaint.
 - b. If the alleged offender is a **College employee**, the **aggrieved employee** shall submit the complaint to the Vice President of Human Resources, or the Director of Employee Relations, or their designees. The appropriate SLT member will be notified.
- ii. The Vice President of Human Resources, or the Director of Employee Relations, or their designees will promptly commence an investigation, demonstrating appropriate urgency. Prompt investigation means that the investigation is commenced and completed as expeditiously as possible given the nature and complexity of the allegations. Investigations ordinarily will be initiated within five (5) working days.

Pending the outcome of the investigation, the Chancellor or the campus Provost may temporarily transfer or reassign the accused or the complainant if the circumstances warrant such action. The Chancellor or his/her designee may place a contract employee on suspension with pay pending the final resolution of a complaint; non-contract employees may be suspended with or without pay, depending on the circumstances.

- B. The investigator(s) will prepare a written report and, if warranted, recommend appropriate corrective action. The investigator(s) shall consider the severity and frequency of the conduct, the relationship of and history between the parties, where the harassment occurred, and whether there has been other past incidents involving the same alleged offender. Whether a particular action or incident constitutes a violation of this policy requires a determination based on the totality of the circumstances. The investigator's written findings shall be provided to the complainant and the accused.
- i. If the alleged offender is a **student**, then the investigator(s) shall present the report to the Associate Vice Chancellor of Student Services for disposition and imposition of a penalty, if any. The student may appeal the Associate Vice Chancellor's decision in accordance with the student discipline procedures in the Student Code of Conduct.
 - ii. If the alleged offender is an **employee**, then the investigator(s) shall present the report to the campus administration or District administration, as appropriate, for disposition and imposition of a penalty, if any. If the proposed penalty is termination, then the procedures in Policy IV-G-1 shall be followed for contract employees, and Policy IV-G-2 shall be followed for non-contract employees. If the discipline does not involve termination, the accused may seek review of the decision pursuant to Policy IV-I, the Concerns and Grievance Policy. The concern shall be submitted within five (5) working days of receipt of the decision. The concern shall be reviewed by the respective SLT member, or his or her designee. The SLT member or designee may request written submissions from the complainant and the accused. The SLT member or designee shall issue a ruling in writing within fifteen (15) working days or as soon as practicable.
 - iii. If the complainant is dissatisfied with the disposition of his or her complaint, then the complainant may seek review of the decision pursuant to Policy IV-I, the Concerns and Grievance Policy. The concern shall be reviewed by the SLT member, or his or her designee. The SLT member or designee may request written submissions from the complainant and the accused. The SLT member or designee shall issue a ruling in writing within fifteen (15) working days or as soon as practicable.
 - iv. When both employees wish to appeal the disposition of a harassment or discrimination complaint, the proceedings permitted by this policy may be consolidated at the discretion of the SLT member or designee so long as this consolidation does not prejudice either party.
- C. Should the investigation reveal that the allegations were knowingly false or made in bad faith, disciplinary action against the complainant may be recommended. Such disciplinary action may not be imposed without the approval of the respective SLT member.

ROLE OF LEADERS IN THE PREVENTION OF HARASSMENT AND DISCRIMINATION IN THE WORKPLACE

When a leader or supervisor becomes aware of harassment or discrimination allegations or incidents within his or her area of authority, the leader or supervisor shall, even in the absence of a formal, written complaint, take prompt and appropriate action reasonably necessary to ensure compliance with this policy. The leader or supervisor may make appropriate inquiries to evaluate whether further action is warranted, and they may counsel employees about appropriate and inappropriate behavior in the

workplace and issue appropriate directives to ensure compliance with this policy. Leaders and supervisors with actual knowledge of harassment and discrimination violations shall promptly notify the Employee Relations Office in the Human Resources Department.

COMPLAINTS AGAINST DISTRICT OFFICIALS

Charges of harassment or discrimination against the Vice Chancellor of Human Resources shall be filed directly with the Chancellor or designee. The Chancellor or designee shall take appropriate action to investigate the complaint and to impose an appropriate disciplinary action, if necessary. Charges of harassment or discrimination against the Chancellor or any board member shall be filed directly with the Chairman of the Board. If the charge is against the Board Chairman, the complaint shall be submitted to the Vice Chairman. The Board or its designee shall take appropriate action to investigate the complaint and to impose an appropriate sanction, if necessary. The Board may employ an outside investigator if necessary.

HARASSMENT OF STUDENTS

Students may file harassment complaints in accordance with the procedures found in the San Jacinto College District Student Handbook.

PREVENTION

The Board recognizes that prevention is the best tool for the elimination of harassment and discrimination and conditions conducive to harassment and discrimination. Therefore, the Chancellor will take all necessary steps to prevent and eliminate harassment and discrimination including, but not limited to:

- A. Developing and publishing procedures for the prompt and equitable investigation and resolution of complaints.
- B. Distributing this policy to employees and students through the San Jacinto College website and/or handbooks.
- C. Ensuring that in-house training on harassment and discrimination are established and regularly offered.
- D. Publishing harassment materials where appropriate.
- E. Including an explanation of the College District's anti-harassment policy during student and employee orientation.

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