



Chapter 3—General Institution

AP 3430 – Prohibition of Harassment

Reference: Education Code Sections 212.5; 66281.5; Title IX, Education Amendments of 1972; Title V, Sections 59320 et seq.; Title VII of the Civil Rights Act of 1964, 42 U.S.C.A. § 2000e.

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. This definition of harassment is not meant to apply to constitutionally protected speech.

Definitions

General Harassment. Harassment based national origin, religion, age, sex (gender), race, color, medical condition, ancestry, sexual orientation, marital status, physical or mental disability, or because he or she is perceived to have one or more of the foregoing characteristics is illegal and violates District policy. Harassment occurs when unwelcome conduct based on a person's national origin, religion, age, sex (gender), race, color, medical condition, ancestry, sexual orientation, marital status, physical or mental disability, or because he or she is perceived to have one or more of the foregoing characteristics is sufficiently severe, pervasive or persistent so as to alter the conditions of an individual's learning or work environment, interfere with an individual's academic or work performance, or limit the ability of an individual to participate in or benefit from the services, activities or privileges provided by the District and therefore, creates a hostile environment.

The determination of whether an environment is hostile is based on the totality of the circumstances, including such factors as the context, nature, scope, frequency, duration, and location of the racial incidents, as well as the identity, number and relationships of the people involved. Harassing conduct can be verbal, physical and/or visual in nature and in most cases, must be more than casual or isolated incidents. However, the frequency and severity of the conduct are viewed in proportion to each other, such that harassment can arise from one severe incident or from less severe, but frequent incidents. The victim must subjectively perceive the environment as hostile, and the harassment must be such that a reasonable person of the same protected status would perceive the environment as hostile.

An environment may also be hostile toward anyone who merely witnesses harassment in his or her immediate surroundings, although the conduct is directed at others. The conduct does not have to be directed at the victim or complainant's race, gender, sexual orientation or other protected status, but just has to be motivated by race, gender, sexual orientation or other protected status in general (e.g. conduct based on the race of a complainant's friend or associate).

Gender-based harassment does not necessarily involve conduct that is sexual, but rather conduct based on gender. 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.

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:



Chapter 3—General Institution

- Submission to the conduct is made 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 of employment or academic decisions affecting the individual;
- The conduct has a negative impact upon the individual's work or academic performance, or of creating an intimidating, hostile, or offensive work or educational 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 educational or 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, pervasive or persistent so as to alter the conditions of an individual's learning or work environment, interfere with an individual's academic or work performance, or limit the ability of an individual to participate in or benefit from the services, activities or privileges provided by the District and therefore, creates a hostile environment.

The determination of whether an environment is hostile is based on the totality of the circumstances, including such factors as the context, nature, scope, frequency, duration, and location of the racial incidents, as well as the identity, number and relationships of the people involved. Harassing conduct can be verbal, physical and/or visual in nature and in most cases, must be more than casual or isolated incidents. However, the frequency and severity of the conduct are viewed in proportion to each other, such that harassment can arise from one severe incident or from less severe, but frequent incidents. 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:

The following types of conduct are examples of conduct, when severe and/or pervasive, can constitute harassment. This list is meant to provide examples and is not exhaustive.



Chapter 3—General Institution

- Unwarranted focus on, or stereotyping of, particular racial or ethnic groups, sexual orientations, genders, sex or other protected statuses that is not relevant to the subject matter of the class or activities of the job;
- Demands for sexual favors;
- Verbal abuse, threats, or intimidation directed at an individual due to that person's gender, race, national origin, sexual orientation or other protected status;
- Inappropriate or offensive touching, assault, or physical interference with free movement;
- 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.

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.

Academic Freedom

To the extent the harassment policies and procedures are in conflict with the District's policy on academic freedom, the harassment policies and procedures shall prevail. If the faculty member wishes to use sexually explicit in the classroom as a teaching technique, the faculty member must review that use with an administrator to determine whether or not this violates the harassment policy.

Revised: 12/22/2008; 12/01/2008

Adopted: 7/21/2004