

SOUTHWESTERN COMMUNITY COLLEGE	HUMAN RESOURCES / INFORMATION TECHNOLOGY <b>DISCRIMINATION AND UNLAWFUL HARASSMENT</b>	Policy 4.03.05
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## I. Introduction

Employees and students, without any fear of reprisal, have the responsibility to bring any form of sexual or other unlawful harassment or discrimination (whether by a co-worker, student, or other person who is participating in, observing or otherwise engaged in College activities) to the appropriate person so that a prompt investigation into the circumstances of the incident and the alleged harassment can be conducted.

The College shall take reasonable steps to discourage and prevent discrimination and harassment from occurring and, when appropriate, the College shall take corrective measures if necessary.

## II. Definitions

- A. Discrimination means any act or failure to act that unreasonably and unfavorably differentiates treatment of others based solely on their membership in a legally protected group or category, such as race, ethnicity, gender, age, disability, or national origin. Discrimination may be intentional or unintentional.
- B. Sexual Harassment includes physical contact and/or conduct that creates an unwelcome or hostile environment. It includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical contact of a sexual nature when submission to the conduct is made a term or condition of an individual's employment or academic performance (either implicitly or explicitly), when submission to or rejection of the conduct is used as the basis for employment or educational decisions affecting the individual, or when the conduct is sufficiently severe, persistent, or pervasive to interfere with an individual's work or academic performance or to create an intimidating, hostile, or offensive working or learning environment. Occasional compliments of a socially acceptable nature do not constitute sexual harassment.

Sexual harassment may include but is not limited to:

- Physical assault, including rape, or any coerced sexual relations.
- Subtle pressure for sexual activity or for a relationship that takes on a sexual or romantic coloring, thereby exceeding the limits of professional relationship.
- Any demeaning sexual propositions.
- Unnecessary touching in any form.
- Sexually explicit or suggestive remarks about a person's physical attributes, clothing, or behavior.
- Sexually stereotyped or sexually charged insults, humor, verbal abuse, or graffiti.

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- Any sexually inappropriate behavior that prevents an individual from participating in their employment, academic performance, or in any functions of the college.
- C. Other unlawful harassment may consist of verbal or physical conduct that denigrates or shows hostility or aversion toward an individual including threats, intimidation, jokes, rumors, name calling, ethnic slurs, negative stereotypes or hostile acts based upon his or her race, color, religion, age, national origin, disability, veteran's status, creed, political affiliation, or any other legally protected status not listed herein, or that of his or her relative, friends, or associates, and has the purpose or effect of creating an intimidating, hostile, or offensive work or learning environment; has the purpose or effect of interfering unreasonably with an individual's work or academic performance; or otherwise adversely affects an individual's employment or educational opportunities.

Other unlawful harassment may include but is not limited to:

- Threatening or intimidating conduct directed at another because of the individual's race, color, religion, age, national origin, disability, veteran's status, creed, political affiliation, or any legally protected status not listed herein.
- Jokes, name calling, or rumors based upon an individual's race, color, religion, age, national origin, disability, veteran's status, creed, political affiliation, or any legally protected status not listed herein.
- Ethnic slurs, negative stereotypes and hostile acts based on an individual's race, color, religion, age, national origin, disability, veteran's status, creed, political affiliation, or any legally protected status not listed herein.

### III. Reporting Harassment and Discrimination

All members of the College community are expected to take appropriate action to prevent harassment and discrimination, including reporting alleged acts of harassment/discrimination to the appropriate College official. Any College employee receiving a complaint of harassment or discrimination shall immediately refer the Complaint to the appropriate person under this section of the policy.

Reports of unlawful discrimination and harassment should be made to the following individuals:

- A. An employee who has a discrimination or harassment complaint may report the complaint to the Director of Human Resources and ~~Facility Development~~.
- B. A student who has a discrimination or harassment complaint may report the complaint to the Executive Vice President for Instruction and Student Services.

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- C. If the alleged discriminator or harasser is a senior administrator (Vice President), then the complainant should report the complaint to the President.
- D. In addition to the above, anyone may report allegations of sexual harassment or discrimination to the College's Title IX Coordinator, Director of Human Resources and Facility Development or Dean of Student Services.

#### **IV. Investigation Procedure**

Members of the College community are encouraged to resolve issues informally and may attempt to do so directly with the other party or with the assistance of a supervisor or other College official. In circumstances in which the informal process fails or is inappropriate or in which the complainant requests formal procedures, the complaints will be investigated promptly, impartially and thoroughly according to the following procedures:

- A. Individuals filing sexual or other unlawful harassment and discrimination complaints are urged to do so in writing as soon as possible but no later than thirty (30) days after disclosure or discovery of the facts giving rise to the complaint. Complaints submitted after the thirty (30) day period may still be investigated; however, individuals should recognize that delays in reporting may significantly impair the ability of College officials to investigate and respond to such complaints. The Vice President for Administrative Services and Chief Financial Officer shall fully investigate all employee sexual or other unlawful harassment complaints and, as needed and if the complaint also involves a student, collaborate with the Executive Vice President for Instruction and Student Services. The Executive Vice President for Instruction and Student Services shall fully investigate any student sexual or unlawful harassment complaints and will, as needed and if the complaint also involves an employee, collaborate with the Vice President for Administrative Services and Chief Financial Officer.
- B. The respective Vice President may, in his or her discretion, involve other College administrators in the investigation as necessary to conduct and finalize the investigation (e.g., Title IX Coordinator, Director of Human Resources and Facility Development, College Attorney).
- C. During the investigation, the respective Vice President shall meet with each party and give each party an equal opportunity to provide evidence, including informing the Vice President of any potential witnesses. Both parties will be provided access to any information provided by the other in accordance with any federal or state confidentiality laws.
- D. During the investigation process, the respective Vice President may implement temporary measures in order to facilitate an efficient and thorough investigation

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process as well as to protect the rights of all parties involved. The temporary actions include, but are not limited to, the following: reassignment of office, duties, or position; suspension; or the directives that include no contact between the involved parties.

- E. A confidential file regarding the complaint shall be maintained by the Vice President for Administrative Services and Chief Financial Officer (for employees) or by the Executive Vice President for Instruction and Student Services (for students). To the extent possible, the College will keep all information relating to the complaint and investigations confidential; however, to maintain compliance with the Clery Act, both parties will be informed of the outcome of any institutional proceeding alleging a sexual harassment or violence.
- F. The respective Vice President shall make every effort to conclude the investigation within sixty (60) days. If the nature of the investigation requires additional time, the Vice President may have an additional thirty (30) days to complete the investigation. The Vice President shall notify the parties of this extension.
- G. Alleged victims will be notified immediately that they have the right to seek additional assistance from law enforcement and have the right to seek, among other things, judicial no-contact, restraining and protective orders.
- H. Alleged victims will be notified of available counseling services and their options for change of academic situations.

#### **IV. Determinations and Due Process Procedure**

##### **A. Students**

For allegations where both the alleged perpetrator and victim are students, following an investigation, the Executive Vice President for Instruction and Student Services shall prepare a report of his/her investigation and review the report with the person(s) involved and, if appropriate, implement any corrective and/or disciplinary action based on the preponderance of the evidence. Appropriate disciplinary action shall depend upon the seriousness of the misconduct and may include: a warning, written reprimand, suspension, expulsion from College property or denial of access to College services or programs.

If the person(s) are dissatisfied with the Executive Vice President's determination, within seven (7) calendar days of receipt of that determination, the person(s) may appeal to the Discipline Review Committee consistent with the Disciplinary Appeals Procedure. (See Procedure 6.03.02.02 – Discipline and Appeal Procedure for Non-Academic Violations). For complaints involving sexual harassment or discrimination, the College's Title IX Coordinator shall also receive a copy of the final report and determination.

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**B. Personnel and Students**

For allegations where the alleged perpetrator and victim are either personnel or a mix of students and personnel, following an investigation, the appropriate Vice President shall prepare a recommendation for the President. The President shall review the recommendation and the supporting documents, conduct any further investigation necessary or take any other steps he/she determines to be appropriate in order to respond to the complaint. The President shall provide his/her written determination within ten (10) business days after receiving the Vice President's recommendation, unless further investigation is needed. For complaints involving sexual harassment or discrimination, the College's Title IX Coordinator shall also receive a copy of the final report and determination.

Appropriate disciplinary action shall depend upon the seriousness of the misconduct and may include for employees: a warning, written reprimand, suspension or dismissal; for students: a warning, written reprimand, suspension, expulsion from College property or denial of access to College services or programs.

If either party is dissatisfied with the President's determination, he/she may appeal the decision to the Board of Trustees. The appeal must be submitted, in writing, to the President's office within five (5) business days of receiving the President's determination. The Board shall conduct an "on the record review" and may, if necessary, conduct any further investigation or hearing necessary or take any other steps it determines to be appropriate in order to respond to the complaint. Unless further investigation is needed, the Board shall provide a written response within thirty (30) business days after receiving the appeal. The Board may conduct a hearing on the matter if it determines either party is entitled to receive a hearing under the law or in accordance with another Board policy.

**C. President**

When the College President is the alleged perpetrator, upon receiving notice of the allegations, the appropriate Vice President shall inform the Board of Trustees' Chair. The Chair shall inform the President regarding the investigation. The Board shall use a third party to investigate the allegations and conduct any further investigation or hearing necessary to respond to the complaint. Upon the conclusion of the investigation and hearing, if one is held, the Board shall, in a timely manner, inform the parties in writing of its determination.

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## V. **Protection Against Retaliation**

The College will not in any way retaliate against an individual who makes a report of sexual or other unlawful harassment in good faith or who assists in an investigation. Retaliation includes, but is not limited to: any form of intimidation, disciplinary action, reprisal or harassment. Retaliation is a serious violation of this Policy and should be reported immediately as in Section III. The College will take appropriate action against any employee or student found to have retaliated against another in violation of this Policy.

## VI. **Prohibited Personal Relationships**

### A. **Employee Relationships**

Romantic or sexual relationships between College employees in a direct supervisor/supervisee relationship are prohibited. This prohibition shall continue as long as the employees remain in a direct supervisor/supervisee relationship or in the chain of supervision. Employees violating this provision will be subject to disciplinary action up to and including termination of employment.

Romantic or sexual relationships between College employees not in a supervisor/supervisee relationship that impairs the College employee's effectiveness, disrupts the workplace/learning environment, and/or impairs the public confidence in the College will be subject to disciplinary action up to and including termination of employment.

### B. **Employee/Student Relationships**

Romantic or sexual relationships between College employees and students are prohibited if the employee and the student have an academic relationship. Academic relationships include any activities in which the employee is a direct or indirect supervisor or instructor for the student, as in a classroom or lab, or is a sponsor for any College activity involving the student, including work study or organizational/club/sport activities including career counseling and academic advising. This prohibition shall continue until the student or the employee is no longer affiliated with the College. Employees engaging in inappropriate relationships will be subject to disciplinary action up to and including termination of employment. Students engaging in inappropriate relationships may be subject to disciplinary action up to and including expulsion.

Romantic or sexual relationships between College employees and students not in an academic relationship that impairs the College employee's effectiveness, disrupts the workplace/learning environment, and/or impairs the public confidence in the College will be subject to disciplinary action up to and including termination of employment or expulsion from the College.

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## VII. Suspending Policy

In cases of emergency or serious misconduct, the College reserves the right to suspend this process and may enact appropriate action for the welfare and safety of the College community.

## VIII. Educating Students and Employees on Sexual Violence

All new students and new employees shall be offered a primary prevention and awareness program that promotes awareness of rape, acquaintance rape, domestic violence, dating violence, sexual assault and stalking.

Adopted: April 1999

Cross Reference: 4.03.02 – Employee Code of Conduct;  
6.03.01 – Campus Safety Reporting – Clery Act;  
6.03.02 – Standards of Student Conduct; Administrative Procedures  
6.03.02.02 – Discipline and Appeal Procedure for Non-Academic Violations  
6.03.03.01 – Sexual Assault Victims’ Bill of Rights

Revised: October 22, 2013  
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