

Policy IV.4002.G, Employee Harassment and Discrimination

Purpose

It is the policy of the San Jacinto College to provide an educational, employment, and business environment free of discrimination based on race, creed, color, national origin, citizenship status, age, disability, pregnancy and pregnancy-related conditions, religion, gender/sex, sexual orientation, gender expression or identity, genetic information, marital status, or veteran status. This policy on discrimination encompasses discriminatory harassment and sexual misconduct. The College desires to foster and support a culture of mutual respect, communication, and inclusion for all employees and to provide procedures for the prompt, thorough, and impartial investigation, and resolution of complaints.

Policy

This policy prohibits discrimination in all College programs and activities regardless of location and applies to all work sites (whether or not owned by the College) including all College facilities (whether leased or owned), work-related travel, and work vehicles. The prohibition encompasses off-campus conduct that unreasonably creates a hostile or intimidating work environment on campus. Trustees, administrators, faculty, staff, agents of the College, campus visitors, and independent contractors providing service to the College will not engage in conduct constituting unlawful harassment or discrimination. The College will promptly investigate suspected violations and take appropriate corrective action, up to and including termination, when allegations are substantiated. Each leader has the responsibility to comply with and enforce this policy, which means reporting suspected violations to Human Resources, Employee Relations, educating and counseling employees on unacceptable behavior, and taking disciplinary action in response to violations. Leaders who knowingly allow or tolerate discrimination or who fail to report information to Employee Relations, or the Title IX Coordinator as required by law or College policy, are subject to discipline, up to and including termination.

Discrimination, harassment, and sexual misconduct are prohibited by numerous federal and state laws, including, but not limited to, Title VII of the Civil Rights Act 1964; the Age Discrimination in Employment Act; the Americans with Disabilities Act of 1990; Chapter 21 of the Texas Labor Code; the Pregnancy Discrimination Act; the Pregnant Workers Fairness Act; the Equal Pay Act; the Rehabilitation Act of 1973; the Vietnam Era Veterans' Readjustment Assistance Act of 1974; and Title II of the Genetic Information Non-Discrimination Act. This Policy is intended to comply with the prohibitions stated in all applicable state and federal anti-discrimination laws affecting employment.

Citizenship status discrimination does not violate this policy when such discrimination is required to comply with a statute, regulation, executive order, or federal government contract.

Complaints by Students Excluded: This policy does not apply to complaints by students. Complaints by students are addressed in Board Policy IV-B-3-a Student Harassment and Procedure 1-1 Student Harassment. Student complaints alleging sexual harassment, sexual assault, dating violence, domestic violence, or stalking must be brought under Policy III.3006.D, Sexual Misconduct and Procedure III.3006.D.a, Allegations of Sexual Misconduct.

An individual who works for the College and currently is taking one or more classes at the College may file an employment discrimination complaint under this policy if the alleged discrimination occurred while the individual was performing work duties for the College. If the alleged discrimination occurred while the individual was participating in an education program or activity of the College, the individual must utilize the complaint procedures for students.

Sexual Misconduct Complaints by Employees against Students: Employee complaints against a student alleging sexual harassment, sexual assault, dating violence, domestic violence, or stalking must be brought under Policy III.3006.D, Sexual Misconduct and Procedure III.3006.D.a, Allegations of Sexual Misconduct.

Retaliation is Prohibited

Employees have a legal right to file charges of employment discrimination, harassment, and sexual misconduct, to oppose discriminatory employment practices, to seek supportive measures, and to participate in an investigation of such employment complaints. Retaliation against such employees is strictly forbidden.

Retaliation is conduct that a reasonable employee would view as materially adverse and whose purpose or effect is to discourage employees from exercising their rights under this policy or under the law and that would not have occurred but for the employee's complaint or the employee's exercise of their statutory rights. Retaliation does not include exercising one's First Amendment rights or charging an individual with making a materially false statement in bad faith in the course of an investigation or grievance proceeding.

The protection against retaliation applies to all good-faith complaints, even if the complaint ultimately is not sustained. Employees may file retaliation complaints under Policy IV.4002.F, Employee Concerns and Grievances.

Evaluation of Harassment Claims

Whether unlawful harassment has occurred will be based on the totality of the circumstances, including but not limited to:

- a) the nature, severity, frequency, and duration of the conduct (e.g., verbal versus non-verbal, whether the conduct was physically threatening, whether the conduct was offensive but not threatening).
- b) the context and location of the conduct.
- c) the number of participants in the conduct and whether the alleged respondent specifically targeted the affected individual.
- d) the degree to which the conduct interfered with the affected individual's work environment.

When an investigation results in an adverse finding, the above factors will be considered when determining discipline, corrective action, and/or remedial measures. Additional factors include but are not limited to the following:

- a) Alleged respondent's disciplinary and work history.
- b) Alleged respondent's response to prior supervisory interventions.
- c) Quality of the evidence (e.g., direct firsthand knowledge; credible corroborating evidence).
- d) The level of ongoing threat to the physical safety, security, and wellbeing of the complaining party or others in the College community.
- e) The need to address the impact or effects of the conduct on a specific departmental unit.
- f) Alleged offender's response to the complaint, including whether the alleged offender engaged in retaliation against the complaining party or witnesses.

Complaints Based on a Failure to Provide Workplace Accommodations

This policy applies to complaints based on the alleged failure to provide reasonable workplace accommodations to employees with a disability as defined under the Americans with Disabilities Act; employees who have requested a reasonable accommodation due to a sincerely held religious belief or practice; and employees who have requested a reasonable accommodation based on pregnancy, childbirth, or related medical condition or based on the employee's request for break time for lactation purposes as permitted by Policy IV.4000.I, Lactation. In accordance with Human Resources procedures, reasonable accommodations must be provided unless doing so would constitute an undue hardship for the College.

Dispute Resolution and Complaint Process

The College encourages the prompt reporting of complaints or concerns so that immediate and constructive action can be taken, when appropriate. Early reporting and intervention are key components of a program for resolving actual or perceived incidents of discrimination, harassment, or sexual misconduct.

Any employee alleging a violation of this policy is encouraged to seek resolution of their complaint. The College administration will prepare and disseminate procedures for investigating complaints under this policy. Procedure IV.4002.G.a, Employee Harassment and Discrimination will address all complaints except those involving sexual harassment, sexual misconduct, and other inappropriate conduct of a sexual nature. Procedure IV.4002.G.b, Employee Sexual Harassment and Sexual Misconduct will address complaints involving sexual harassment, sexual misconduct, and other inappropriate conduct of a sexual nature.

Complaints against District Officials and Board Members

Charges of harassment and discrimination against the Vice Chancellor of Human Resources, Organizational and Talent Effectiveness, Vice President of Human Resources, Title IX

Coordinator, or Employee Relations investigators will be filed directly with the Chancellor. Charges against the Chancellor or any Board member will be filed with the Board Chairperson. Charges against the Chairperson will be filed with the Vice Chairperson. The official receiving the charge will take appropriate, prompt action to ensure that the complaint is investigated including, as appropriate, designating an objective and neutral investigator, and to take remedial, corrective, or disciplinary action if the complaint is substantiated.

Prevention

San Jacinto College will develop and implement a comprehensive prevention and outreach program on employment discrimination, employment harassment, and sexual misconduct, including sexual harassment, sexual assault, dating violence, domestic violence, and stalking.

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 is established and required annually by all employees.
- d) Publishing harassment and discrimination prevention materials where appropriate.
- e) Including an explanation of the College's anti-harassment and anti-discrimination policy during student and employee orientation.
- f) Reviewing the Board's policies on employment discrimination, employment harassment, sexual harassment, sexual assault, dating violence, domestic violence, and stalking at least each biennium and revise the policy as necessary and obtain approval from the Board.

The Authority, Applicability, Sanctions, Exclusions, and Interpretation do not differ from Policy II.2000.A, Policy and Procedures Development, Review, Revision, and Rescission.

Associated Procedures

Procedure IV.4002.G.a, Employee Harassment and Discrimination

Procedure IV.4002.G.b, Employee Sexual Harassment and Sexual Misconduct

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Primary Owner Vice Chancellor, Human Resources, Organizational and Talent Effectiveness

Secondary Vice President, Human Resources
Owner
