
Note: This policy only addresses employee complaints of sex and gender discrimination, sexual or gender-based harassment, sexual assault, stalking, and retaliation. For legally referenced material relating to this subject matter, see DAA(LEGAL). For sex discrimination, sexual harassment, sexual violence, and retaliation targeting students, see FFDA. For other employee complaints not covered by Title VII or Title IX laws, see DIAB.

Definitions Solely for purposes of this policy, the term “employee” includes former employees, applicants for employment, and unpaid interns.

Statement of Nondiscrimination The College District prohibits discrimination, including harassment, against any employee on the basis of sex or gender. Retaliation against anyone involved in the complaint process is a violation of College District policy.

Discrimination Discrimination against an employee is defined as conduct directed at an employee on the basis of sex or gender that adversely affects the employee’s employment.

Sexual Harassment For purposes of this policy, sexual harassment is a form of sex discrimination defined as unwelcome sexual advances; requests for sexual favors; sexually motivated physical, verbal, or nonverbal conduct; or other conduct or communication of a sexual nature when:

1. Submission to the conduct is either explicitly or implicitly a condition of an employee’s employment, or when submission to or rejection of the conduct is the basis for an employment action affecting the employee; or
2. It is based on unwelcome conduct that a reasonable person would determine is so severe, persistent, pervasive, and objectively offensive that it has the purpose or effect of unreasonably interfering with the employee’s work performance or creates an intimidating, threatening, hostile, or offensive work environment; or
3. Any instance of sexual assault, as defined in the Jeanne Clery Disclosure of Campus Security Policy Campus Crime Statistics Act (Clery Act), and dating violence, domestic violence, or stalking, as defined in the Violence Against Women Act (VAWA).

Note: Quid pro quo harassment, Clery Act, and VAWA offenses are not evaluated for severity, pervasiveness, offensiveness, or denial of equal educational access because such

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misconduct is considered sufficiently serious to deprive a student of equal access.

Sexual Assault

Sexual assault is a form of sexual harassment. Sexual assault includes physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's use of drugs or alcohol or due to an intellectual or other disability. For purposes of this policy, consent is defined as an informed, voluntary, affirmative, and mutual agreement between the participants to engage in a specific sexual act. Consent is further defined by the consent guidelines in FFDA(LOCAL).

Examples

Examples of sexual harassment may include sexual advances; touching intimate body parts; coercing or forcing a sexual act on another; jokes or conversations of a sexual nature; offensive or derogatory language of a sexual nature directed at another person; and other sexually motivated conduct, communication, or contact.

**Dating Violence,
Domestic
Violence, and
Stalking**

For purposes of this policy, the terms "dating violence," "domestic violence," and "stalking" are incorporated into this policy as defined in FFDA(LOCAL).

Retaliation

The College District prohibits retaliation against an employee who makes a claim alleging to have experienced discrimination or harassment, or another employee who, in good faith, makes a report, serves as a witness, or otherwise participates in an investigation.

False Claims

An employee who intentionally makes a false claim, offers false statements, or refuses to cooperate with a College District investigation regarding harassment or discrimination is subject to appropriate discipline. Charging an individual with a violation(s) for making a false claim, materially false statement, or refusing to cooperate during the course of an investigation regarding discrimination or harassment does not constitute retaliation. However, a determination regarding responsibility, alone, is not sufficient to conclude that any party made a false claim or a materially false statement.

Examples

Examples of retaliation may include termination, refusal to hire, demotion, and denial of promotion. Retaliation may also include threats, unjustified negative evaluations, unjustified negative references, or increased surveillance.

Prohibited Conduct

In this policy, the term "prohibited conduct" includes dating violence, domestic violence, sexual assault, stalking, sex discrimina-

tion, sexual or gender-based harassment, and retaliation as defined by this policy, even if the behavior does not rise to the level of unlawful conduct.

**Reporting
Procedures**

An employee who believes that he or she has experienced prohibited conduct or believes that another employee has experienced prohibited conduct should immediately report the alleged acts. The employee may report the alleged acts to his or her immediate supervisor.

Alternatively, the employee may report the alleged acts to one of the College District officials below or electronically through the College District's online complaint form located on its website.

For the purposes of this policy, "College District officials" are the Title IX coordinators listed below and the District President.

**College District's
Mandatory Response
Obligations**

The College District will respond promptly to sexual harassment, as defined in this policy, in a manner that is not deliberately indifferent, which means a response that is not clearly unreasonable in light of known circumstances, or as otherwise required by applicable Title IX regulations. The College District's response obligations are listed in FFDA(LOCAL).

**Definition of College
District Officials**

Title IX Coordinator

Reports of discrimination based on sex, including sexual harassment as defined in this policy, may be directed to the Title IX coordinators. The College District designates the following persons to coordinate its efforts to comply with Title IX of the Education Amendments of 1972, as amended:

Name: Floyd Nickerson
Position: Chief Human Resources Officer
Address: 3452 Spur 399, McKinney, TX 75069
Telephone: (972) 599-3159

Deputy Title IX
Coordinator for
Human Resources

Name: Tonya Jacobson
Position: Manager HR/Employee Relations
Address: 3452 Spur 399, McKinney, TX 75069
Telephone: (972) 758-3856

Other Anti-
discrimination Laws

The District President or designee will serve as coordinator for purposes of College District compliance with all other antidiscrimination laws.

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Alternative Reporting Procedures

An employee will not be required to report prohibited conduct to the person alleged to have committed it. Reports concerning prohibited conduct, including reports against the Title IX coordinators, may be directed to the District President or designee.

A report under this policy against the District President may be made directly to the Board. If a report is made directly to the Board, the Board will appoint an appropriate person to conduct an investigation.

Timely Reporting

Employee reports of prohibited conduct will be made immediately after the alleged act or knowledge of the alleged act. A failure to promptly report may impair the College District's ability to investigate and address the prohibited conduct.

Notice of Report

Any College District supervisor who receives a report of prohibited conduct will immediately notify the appropriate College District official listed above and take any other steps required by this policy.

Investigation of the Report

The College District may request, but will not insist upon, a written report or formal complaint as defined in FFDA(LOCAL). If a report is made orally, the College District official receiving the report will reduce the report to written form.

Upon receipt or notice of a report, the College District official will determine whether the allegations, if proven, would constitute prohibited conduct as defined by this policy. If so, the College District official will immediately authorize or undertake an investigation, regardless of whether a criminal or regulatory investigation regarding the same or similar allegations is pending.

If the College District official determines that the allegations, if proven, would not constitute prohibited conduct as defined by this policy but may constitute a violation of other College District rules or regulations, the College District official will refer the complaint for consideration under the appropriate policy.

If appropriate, the College District will promptly take interim action calculated to prevent prohibited conduct during the course of an investigation.

The investigation may be conducted by the College District official or a designee or by a third party designated by the College District, such as an attorney. When appropriate, the supervisor will be involved in or informed of the investigation.

The investigation of prohibited conduct under this policy will be conducted in accordance with the investigation procedures and guidelines contained in FFDA(LOCAL). The College District may

dismiss complaints, as mandated or on a discretionary basis, under the procedures and guidelines listed in FFDA(LOCAL).

Concluding the Investigation and Hearing

Absent extenuating circumstances, the investigation and live hearing should be completed within 60 College District business days from the date of the report; however, the investigator will take additional time if necessary to complete a thorough investigation.

The investigator will prepare a written report of the investigation. The written report will be prepared in accordance with the reporting procedures and guidelines contained in FFDA(LOCAL).

Hearings

Consistent with applicable Title IX regulations, the College District will provide for a live hearing of complaints arising under this policy. The live hearing will be conducted in accordance with the procedures and guidelines contained in FFDA(LOCAL).

College District Action

If the results of an investigation and live hearing indicate that prohibited conduct occurred using a preponderance of the evidence standard (i.e. more likely than not to have occurred), the College District will promptly respond by taking appropriate disciplinary or corrective action reasonably calculated to address the conduct.

The College District may take action based on the results of an investigation and live hearing, even if the conduct did not rise to the level of prohibited or unlawful conduct.

Confidentiality

To the greatest extent possible, the College District will respect the privacy of the complainant, persons against whom a report is filed, and witnesses. Limited disclosures may be necessary in order to conduct a thorough investigation and comply with applicable law. Applicable federal Title IX regulations protect the privacy of a party's medical, psychological, and similar treatment records by stating that the College District cannot access or use such records unless the College District obtains the party's voluntary, written consent to do so.

Appeal

A party who is dissatisfied with the outcome of the investigation may appeal on the grounds listed in FFDA(LOCAL) through the applicable grievance policy beginning at the appropriate level. [See DGBA(LOCAL) for employees and GB(LOCAL) for community members]. Appeals under this policy will be submitted to the appeals officer or administrator designed by the College District. The applicable appeal deadlines and guidelines of DGBA(LOCAL) or GB(LOCAL) will be followed for appeals made under this policy.

Informal Resolution

After a formal complaint is filed, the College District may permit the voluntary use of an information resolution process at any time prior to a final determination. The parties must provide their vol-

untary consent in writing to participate in such a process. The informal resolution process will be handled in accordance with the procedures and guidelines contained in FFDA(LOCAL).

Informal resolution is prohibited in any case where a College District employee is accused of sexual harassment against a student.

The College District will not require the parties to waive their rights to a formal process and agree to information resolution as a condition of enrollment or employment.

The party may have a right to file a complaint with appropriate state or federal agencies.

Records Retention

Retention of records will be in accordance with the College District's records retention procedures. [See CIA]

Records of formal complaint resolutions and informal resolutions will be retained by the College District for a period of seven (7) years. The College District will retain all materials used to train institutional participants in the various phases of the resolution process, including the Title IX coordinators and decision-makers. All materials utilized to train Title IX coordinators, investigators, hearing panel participants, and decision-makers will be made available in accordance with applicable federal Title IX regulation requirements.

In instances where the College District receives a report of sexual harassment but a formal complainant is not filed, the institution will maintain a record of all actions taken, including supportive measures, for a period of seven (7) years. In these instances, the College District will include a written rationale explaining why a formal complaint was not filed.

Access to Policy, Procedures, and Related Materials

Information regarding this policy and any accompanying procedures, as well as relevant educational and resource materials concerning the topics discussed in this policy, will be distributed annually to College District employees and students in compliance with law and in a manner calculated to provide easy access and wide distribution, such as through electronic distribution and inclusion in the employee and student handbooks and other major College District publications. Information regarding the policy, procedures, and related materials will also be prominently published on the College District's website, taking into account applicable legal requirements. Copies of the policy and procedures will be readily available at the College District's administrative offices and will be distributed to an employee who makes a report.

**Mandatory Reporting
under State Law for
Incidents of Dating
Violence, Sexual
Assault, Sexual
Harassment, and
Stalking**

In accordance with the Education Code Section 51.252, an employee who, in the course and scope of employment, witnesses or receives information regarding the occurrence of an incident that the employee reasonably believes constitutes sexual harassment as defined in this policy, and is alleged to have been committed by or against a person who was a student enrolled at or an employee of the College District at the time of the incident, will promptly report the incident to Collin College's Title IX coordinator or deputy Title IX coordinator. The report must include all information concerning the incident known to the reporting person that is relevant to the investigation and, if applicable, redress of the incident, including whether an alleged victim has expressed a desire for confidentiality in reporting the incident.

An employee who is designated by the College District as a person with whom students may speak confidentially concerning sexual harassment as defined in this policy or who receives information regarding such an incident under circumstances that render the employee's communications confidential or privileged under other law will, in making a report under this section, state only the type of incident reported and may not include any information that would violate a student's expectation of privacy. This requirement does not affect the employee's duty to report an incident under any other law.

Exceptions

An employee is not required to make a report concerning:

1. An incident in which the employee was a victim of dating violence, sexual assault, sexual harassment, or stalking; or
2. An incident in which the employee received information due to a disclosure made at a dating violence, sexual assault, sexual harassment, or stalking public awareness event sponsored by the College District or by a student organization affiliated with the College District.

**Anonymous
Reports**

In accordance with Education Code Section 51.9365, College District students and employees can report prohibited conduct anonymously as provided on the Dean of Students page on the College District's website. However, the submission of an anonymous report may impair the College District's ability to investigate and address the prohibited conduct.