

FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION
SEX AND SEXUAL VIOLENCE

FFDA
(LOCAL)

REWRITE

Note: This policy addresses complaints of sex discrimination, sexual harassment, sexual assault, and retaliation targeting students. For legally referenced material relating to discrimination, harassment, and retaliation, see FA (LEGAL) and FFDB (LOCAL). For sex discrimination, sexual harassment, sexual assault, and retaliation targeting employees, see DIAA.

STATEMENT OF
NONDISCRIMINATION

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

DISCRIMINATION

Discrimination against a student is defined as conduct directed at a student on the basis of sex/gender that adversely affects the student.

SEXUAL HARASSMENT
BY AN EMPLOYEE

Sexual harassment of a student by a College District employee includes 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. A College District employee causes the student to believe that the student must submit to the conduct in order to participate in a school program or activity, or that the employee will make an educational decision based on whether or not the student submits to the conduct; or
2. The conduct is so severe, persistent, or pervasive that it limits or denies the student's ability to participate in or benefit from the College District's educational program.

BY OTHERS

Sexual harassment of a student, including harassment committed by another student, includes unwelcome sexual advances; requests for sexual favors; or sexually motivated physical, verbal, or nonverbal conduct when the conduct is so severe, persistent, or pervasive that it limits or denies a student's ability to participate in or benefit from the College District's educational program.

SEXUAL VIOLENCE

Sexual violence is a form of sexual harassment. Sexual violence 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.

EXAMPLES

Examples of sexual harassment of a student may include sexual advances; touching intimate body parts or coercing physical contact that is sexual in nature; jokes or conversations of a sexual nature; rape; sexual assault; sexual battery; sexual coercion; dating

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violence, stalking, and other sexually motivated conduct, communications, or contact.

Physical contact not reasonably construed as sexual in nature is not sexual harassment.

GENDER-BASED
HARASSMENT

Gender-based harassment includes physical, verbal, or nonverbal conduct based on the student's gender, the student's expression of characteristics perceived as stereotypical for the student's gender, or the student's failure to conform to stereotypical notions of masculinity or femininity. For purposes of this policy, gender-based harassment is considered prohibited harassment if the conduct is so severe, persistent, or pervasive that the conduct limits or denies a student's ability to participate in or benefit from the College District's educational program.

EXAMPLES

Examples of gender-based harassment directed against a student, regardless of the student's or the harasser's actual or perceived sexual orientation or gender identity, may include offensive jokes, name-calling, slurs, or rumors; physical aggression or assault; threatening or intimidating conduct; or other kinds of aggressive conduct such as theft or damage to property.

DOMESTIC VIOLENCE

The term "domestic violence" includes felony or misdemeanor crimes of violence committed "in a relationship by one partner to gain or maintain power and control over another intimate partner" (Office on Violence Against Women, United States Department of Justice, www.justice.gov/ovw/domestic-violence).

EXAMPLES

Examples of domestic violence may include abuse committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

RETALIATION

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

EXAMPLES

Examples of retaliation may include threats, rumor spreading, ostracism, assault, destruction of property, unjustified punishments, or unwarranted grade reductions. Unlawful retaliation does not include petty slights or annoyances.

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FALSE CLAIMS

A student who intentionally makes a false claim, offers false statements, or refuses to cooperate with a College District investigation regarding discrimination or harassment shall be subject to appropriate disciplinary action.

PROHIBITED
CONDUCT

In this policy, the term “prohibited conduct” includes discrimination, harassment, and retaliation as defined by this policy, even if the behavior does not rise to the level of unlawful conduct.

REPORTING
PROCEDURES

STUDENT REPORT

Any student who believes that he or she has experienced prohibited conduct or believes that another student has experienced prohibited conduct should immediately report the alleged acts to a responsible employee.

EMPLOYEE REPORT

Any College District employee who suspects and any responsible employee who receives notice that a student or group of students has or may have experienced prohibited conduct shall immediately notify the appropriate College District official listed in this policy and shall take any other steps required by this policy.

EXCEPTIONS

A person who holds a professional license requiring confidentiality, such as a counselor, or who is supervised by such a person shall not be required to disclose a report of prohibited conduct without the student’s consent.

A person who is a nonprofessional counselor or advocate designated in administrative procedures as a confidential source shall not be required to disclose information regarding an incident of prohibited conduct that constitutes personally identifiable information about a student or other information that would indicate the student’s identity without the student’s consent, unless the person is disclosing information as required for inclusion in the College District’s annual security report under the Clery Act [see GAC].

RESPONSIBLE
EMPLOYEE

For purposes of this policy, a “responsible employee” is an employee:

1. Who has the authority to remedy prohibited conduct.
2. Who has been given the duty of reporting incidents of prohibited conduct.
3. Whom a student reasonably believes has the authority to remedy prohibited conduct or has been given the duty of reporting incidents of prohibited conduct.

The College District designates the following persons as responsible employees: any instructor, any administrator, or any College District official defined below.

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DEFINITION OF
COLLEGE DISTRICT
OFFICIALS

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

TITLE IX
COORDINATOR

Reports of discrimination based on sex, including sexual harassment or gender-based harassment, 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:

TITLE IX
COORDINATOR FOR
EMPLOYEES

Name: (Vacant)
Position: Vice President of ~~Human Resources~~Employee Engagement
Address: 3452 Spur 399, McKinney, TX 75069
Telephone: (972) 599-3159

~~DEPUTY~~ TITLE IX
COORDINATOR\$
FOR STUDENTS

Name: Terrence Brennan
Position: Dean of Students
Address: 3452 Spur 399, McKinney, TX 75069
Telephone: (972) 881-5734

DEPUTY TITLE IX
COORDINATOR FOR
EMPLOYEES

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

OTHER ANTI-
DISCRIMINATION
LAWS

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

ALTERNATIVE
REPORTING
PROCEDURES

A student shall not be required to report prohibited conduct to the person alleged to have committed the conduct. Reports concerning prohibited conduct, including reports against the Title IX coordinator, may be directed to the College President.

A report against the College President may be made directly to the Board. If a report is made directly to the Board, the Board shall appoint an appropriate person to conduct an investigation.

TIMELY REPORTING

Reports of prohibited conduct shall be made as soon as possible after the alleged act or knowledge of the alleged act. A failure to immediately report may impair the College District's ability to investigate and address the prohibited conduct.

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INVESTIGATION OF
THE REPORT

The College District may request, but shall not require, a written report. If a report is made orally, the College District official shall reduce the report to written form.

INITIAL
ASSESSMENT

Upon receipt or notice of a report, the College District official shall determine whether the allegations, if proven, would constitute prohibited conduct as defined by this policy. If so, the College District official shall immediately authorize or undertake an investigation, except as provided below at CRIMINAL INVESTIGATION.

If the College District official determines that the allegations, if proven, would not constitute prohibited conduct as defined by this policy, the College District official shall refer the complaint for consideration.

INTERIM ACTION

If appropriate and regardless of whether a criminal or regulatory investigation regarding the alleged conduct is pending, the College District shall promptly take interim action calculated to address prohibited conduct prior to the completion of the College District's investigation.

COLLEGE DISTRICT
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. The investigator shall have received appropriate training regarding the issues related to the complaint and the relevant College District's policy and procedures.

The investigation may consist of personal interviews with the person making the report, the person against whom the report is filed, and others with knowledge of the circumstances surrounding the allegations. The investigation may also include analysis of other information or documents related to the allegations.

CRIMINAL
INVESTIGATION

If a law enforcement or regulatory agency notifies the College District that a criminal or regulatory investigation has been initiated, the College District shall confer with the agency to determine if the College District's investigation would impede the criminal or regulatory investigation. The College District shall proceed with its investigation only to the extent that it does not impede the ongoing criminal or regulatory investigation. After the law enforcement or regulatory agency has completed gathering its evidence, the College District shall promptly resume its investigation.

CONCLUDING THE
INVESTIGATION

Absent extenuating circumstances, such as a request by a law enforcement or regulatory agency for the College District to delay its investigation, the investigation should be completed within ~~ten~~60

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	<p>College District business days from the date of the report; however, the investigator shall take additional time if necessary to complete a thorough investigation.</p> <p>The investigator shall prepare a written report of the investigation. The report shall be filed with the College District official overseeing the investigation.</p>
NOTIFICATION OF THE OUTCOME	<p>The College District shall provide written notice of the outcome, within the extent permitted by the Family Educational Rights and Privacy Act (FERPA) or other law, to the victim and the person against whom the complaint is filed.</p>
COLLEGE DISTRICT ACTION	<p>If the results of an investigation indicate that prohibited conduct occurred, the College District shall promptly respond by taking appropriate disciplinary or corrective action reasonably calculated to address the conduct, in accordance with College District policy and procedures [see FM and FMA].</p>
PROHIBITED CONDUCT	
CORRECTIVE ACTION	<p>Examples of corrective action may include a training program for those involved in the complaint, a comprehensive education program for the College District community, counseling for the victim and the student who engaged in prohibited conduct, follow-up inquiries to determine if any new incidents or any instances of retaliation have occurred, involving students in efforts to identify problems and improve the College District climate, increasing staff monitoring of areas where prohibited conduct has occurred, and reaffirming the College District's policy against discrimination and harassment.</p>
EXCEPTION	<p>The College District shall minimize attempts to require a student who complains of sexual harassment to resolve the problem directly with the person who engaged in the harassment; however, if that is the most appropriate resolution method, the College District shall be involved in an appropriate manner. Mediation shall not be used to resolve sexual harassment complaints <u>of prohibited conduct</u>.</p>
IMPROPER CONDUCT	<p>If the investigation reveals improper conduct that did not rise to the level of prohibited conduct, the College District may take disciplinary action in accordance with College District policy and procedures or other corrective action reasonably calculated to address the conduct.</p>
CONFIDENTIALITY	<p>To the greatest extent possible, the College District shall 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.</p>

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APPEAL

A student who is dissatisfied with the outcome of the investigation may appeal through ~~FLD(LOCAL), beginning at the appropriate level~~the student disciplinary appeals process [see FMA]. A student shall be informed of his or her right to file a complaint with the U.S. Department of Education Office for Civil Rights. The College District shall provide written notice of the outcome of any appeal(s), within the extent permitted by the Family Educational Rights and Privacy Act (FERPA) or other law, to the victim and the person against whom the complaint is filed.

RECORDS RETENTION

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

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, shall 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 shall also be prominently published on the College District's website, taking into account applicable legal requirements. Copies of the policy and procedures shall be readily available at the College District's administrative offices and shall be distributed to a student who makes a report.