

STUDENT WELFARE | FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION ~~FDE~~(LOCAL)
CODE CHANGED FROM ~~FDE~~(LOCAL) TO FFD(LOCAL)

Note: This policy addresses discrimination, harassment, and retaliation ~~targeting~~involving College District students. For the College District's response regarding discrimination, harassment, and retaliation ~~targeting~~involving College District employees, see ~~DIE~~A.

STATEMENT OF
NONDISCRIMINATION

The College District prohibits discrimination, including harassment, against any student on the basis of race, color, religion, sex, national origin, disability, veteran status, or any other basis prohibited by law. 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 race, color, religion, sex, national origin, disability, veteran status, or on any other basis prohibited by law, that adversely affects the student.

PROHIBITED
HARASSMENT

Prohibited harassment of a student is defined as physical, verbal, or nonverbal conduct based on the student's race, color, religion, sex, national origin, disability, veteran status, or any other basis prohibited by law that is so severe, persistent, or pervasive that the conduct:

1. Affects a student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, hostile, or offensive educational environment;
2. Has the purpose or effect of substantially or unreasonably interfering with the student's academic performance; or
3. Otherwise adversely affects the student's educational opportunities.

EXAMPLES

Examples of prohibited harassment may include offensive or derogatory language directed at another person's religious beliefs or practices, accent, skin color, or need for accommodation; threatening, intimidating, or humiliating conduct; offensive jokes, name-calling, slurs, or rumors; physical aggression or assault; display of graffiti or printed material promoting racial, ethnic, or other negative stereotypes; or other kinds of aggressive conduct such as theft or damage to property.

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

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in a ~~collegeschool~~ 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:
 - a. Affects the student's ability to participate in or benefit from an educational program or activity, or otherwise adversely affects the student's educational opportunities; or
 - b. Creates an intimidating, threatening, hostile, or abusive educational environment.

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:

1. Affects a student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, hostile, or offensive educational environment;
2. Has the purpose or effect of substantially or unreasonably interfering with the student's academic performance; or
3. Otherwise adversely affects the student's educational opportunities.

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; 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 is a form of sex discrimination and 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:

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1. Affects a student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, hostile, or offensive educational environment;
2. Has the purpose or effect of substantially or unreasonably interfering with the student's academic performance; or
3. Otherwise adversely affects the student's educational opportunities.

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.

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.

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, and/or sexual violence as defined by this policy, even if the behavior does not rise to the level of unlawful conduct.

REPORTING PROCEDURES 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 an instructor, counselor, administrator, campus security authority (CSA), other College District employee, or the appropriate College District official listed in this policy.

EMPLOYEE REPORTS Any College District employee who has reason to believe or 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.

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DEFINITION OF COLLEGE DISTRICT OFFICIALS | For the purposes of this policy, College District officials are the ADA/Section 504 coordinator, ~~the~~ Title IX coordinator, and the College District President.

ADA / SECTION 504 COORDINATOR | Reports of discrimination based on disability may be directed to the ADA/Section 504 coordinator. The College District designates the following person to coordinate its efforts to comply with Title II of the Americans with Disabilities Act of 1990, as amended, which incorporates and expands the requirements of Section 504 of the Rehabilitation Act of 1973, as amended:

Name: Norma Allen
Position: Associate Vice President of Human Resources and Organizational Development
Address: 3452 Spur 399, McKinney, TX 75069
Telephone: (972) 599-3159

TITLE IX COORDINATOR | Reports of discrimination based on sex, including sexual harassment or gender-based harassment, may be directed to the Title IX coordinator. The College District designates the following person to coordinate its efforts to comply with Title IX of the Education Amendments of 1972, as amended:

Name: Norma Allen
Position: Associate Vice President of Human Resources and Organizational Development
Address: 3452 Spur 399, McKinney, TX 75069
Telephone: (972) 599-3159

DEPUTY TITLE IX COORDINATORS FOR STUDENTS

Name: Terrence Brennan
Position: Dean of Student Development
Address: 2800 E. Spring Creek Parkway, Plano, TX 75074
Telephone: 972-881-5734

Name: Stephanie Meinhardt
Position: Dean of Student Development
Address: 9700 Wade Blvd, Frisco, TX 75035
Telephone: 972-881-5847

First Reading: 5/27/2014

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Name: Doug Willis

Position: Dean of Student Development

Address: 2200 W. University, McKinney, TX 75069

Telephone: 972-377-1793

Name: Alicia Huppe

Position: Dean of Enrollment and Student Success

Address: 3452 Spur 399, McKinney, TX 75069

Telephone: 972-377-1749

OTHER ANTI-
DISCRIMINATION
LAWS

The ~~College District~~ President's ~~s-or~~ designee shall serve as coordinator for purposes of College District compliance with all other anti-discrimination 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 ADA/Section 504 coordinator ~~/or the~~ Title IX coordinator may be directed to the ~~College District~~ President.

A report against the ~~College District~~ 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.

INVESTIGATION OF
THE REPORT

The College District may request, but shall not require, a written report. If a report is made orally, the ~~ADA/504/Title IX Coordinator, Deputy Title IX Coordinator or designee~~ ~~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 appoint a hearing officer and authorize or undertake an investigation, except as provided below at CRIMINAL INVESTIGATION ~~regardless of whether a criminal or regulatory investigation regarding the same or similar allegations is pending.~~

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<u>INTERIM ACTION</u>	If appropriate <u>and regardless of whether a criminal or regulatory investigation regarding the alleged conduct is pending</u> , the College District shall promptly take interim action calculated to address prohibited conduct <u>prior to during</u> the <u>completion course</u> of <u>the College District's</u> investigation.
<u>COLLEGE DISTRICT INVESTIGATION</u>	The investigation may be conducted by the <u>College District official</u> ADA/504/Title IX Coordinator, Deputy Title IX Coordinator, or a designee, or by a third party designated by the College District, such as an attorney. 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.
<u>CRIMINAL INVESTIGATION</u>	<u>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 with 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.</u>
CONCLUDING THE INVESTIGATION	Absent extenuating circumstances, <u>such as a request by a law enforcement or regulatory agency for the College District to delay its investigation</u>, the investigation should be completed within 15 College District business days from the date of the report; however, the investigator shall take additional time if necessary to complete a thorough investigation. The investigator shall prepare a written report of the investigation. The report shall be filed with the College District official overseeing the investigation.
<u>NOTIFICATION OF THE OUTCOME</u>	The College District shall provide written notice of the outcome, within the extent permitted by law, to the complainant and the respondent <u>in compliance with the Family Educational Rights and Privacy Act (FERPA).</u>
COLLEGE DISTRICT ACTION PROHIBITED CONDUCT	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.

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CORRECTIVE ACTION	Examples of e Corrective action may include, <u>but is not limited to, disciplinary penalties outlined in the <i>Student Code of Conduct</i>, Chapter 5, Section 7-5.1.</u> a training program for those involved in the complaint, a comprehensive education program for the College District community, <u>offer</u> counseling to the victim and the student who engaged in prohibited conduct, conducting 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 harassment has occurred, and reaffirming the College District's policy against discrimination and harassment.
EXCEPTION	The College District shall minimize attempts to not 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.
IMPROPER CONDUCT	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.
CONFIDENTIALITY	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.
APPEAL	A complainant or respondent who is dissatisfied with the outcome of the investigation may file a written appeal stating the reasons why the determinations by the hearing officer are not satisfactory. The appeal shall be submitted in writing to the ADA/504/Title IX Coordinator within 15 business days of the decision giving rise to the appeal. Level one appeals relating to a complaint against another student shall be reviewed by the vice president of student development. Level one appeals relating to a complaint against a College District employee shall be reviewed by the vice president of the division for which the employee works. A complainant or respondent, who is dissatisfied with the outcome of a level one appeal, may file a second level written appeal stating the reasons why the findings in the first level appeal determinations by the appropriate vice president are not satisfactory. The appeal shall be submitted to the ADA/504/Title IX Coordinator within 15

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business days of the decision giving rise to the appeal. All level two appeals shall be reviewed by an ~~and~~ administrative review panel. With the exception of cases that involve expulsion of a student, the determination of the administrative review panel is final and cannot be appealed.

An administrative review panel, for the purposes of this policy, is comprised of ~~senior-level~~ college administrators. Information about the administrative review panel may be obtained from the ADA/504/Title IX Coordinator or designee.

In cases that involve the expulsion of a student, the complainant and/or respondent may submit a level three appeal, in writing, with-in fifteen (15) business days of the decision of the administrative review panel, stating the reasons why the determinations by the administrative review panel are not satisfactory. The appeal shall be submitted to the ADA/504/Title IX Coordinator, who will forward all Level three appeals for consideration by the Board of Trustees. The decision of the Board is final and cannot be appealed.

A complainant and respondent shall be informed of his or her right to file a complaint with the United States Department of Education Office for Civil Rights.

RECORDS RETENTION

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

ACCESS TO POLICY
AND PROCEDURES

Information regarding this policy and any accompanying procedures shall be distributed annually to College District employees and students in a manner calculated to provide easy access and wide distribution, such as through electronic distribution and inclusion in major College District publications. Information regarding the policy and procedures shall also be prominently published on the College District's ~~W~~Web-site. Copies of the policy and procedures shall be readily available at the College District's administrative offices.