

SEXUAL HARASSMENT POLICY

READING CONSTITUTES TRAINING

I have participated in training regarding the District's sexual harassment policy and procedure. I understand the policy and accept my obligation to comply with the policy.

I do not understand the District's sexual harassment policy and procedure and wish additional training.

I have provided the following information for you to contact me to set up additional training :

Home Telephone Number: _____

Work Telephone Number: _____

Cellular Number: _____

E Mail: _____

Print Name

Date

Signature

***Return this form to the Human Resources Department.
This form will be retained in your personnel file.***

BP 3430 Prohibition of Harassment

References:

Education Code Sections 212.5, 44100, 66252, and 66281.5;

Government Code Sections 12940 and 12950.1;

Title VII of the Civil Rights Act of 1964, 42 U.S. Code Annotated Section 2000e

All forms of harassment are contrary to basic standards of conduct between individuals and are prohibited by state and federal law, as well as this policy, and will not be tolerated. The District is committed to providing an academic and work environment that respects the dignity of individuals and groups. The District shall be free of sexual harassment and all forms of sexual intimidation and exploitation including acts of sexual violence. It shall also be free of other unlawful harassment, including that which is based on any of the following statuses: race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, or sexual orientation of any person, or military and veteran status, or because he or she is perceived to have one or more of the foregoing characteristics.

The District seeks to foster an environment in which all employees, students, unpaid interns and volunteers feel free to report incidents of harassment without fear of retaliation or reprisal. Therefore, the District also strictly prohibits retaliation against any individual for filing a complaint of harassment or for participating in a harassment investigation. Such conduct is illegal and constitutes a violation of this policy. All allegations of retaliation will be swiftly and thoroughly investigated. If the District determines that retaliation has occurred, it will take all reasonable steps within its power to stop such conduct. Individuals who engage in retaliatory conduct are subject to disciplinary action, up to and including termination or expulsion.

Any student, employee, unpaid intern, or volunteer who believes that he or she has been harassed or retaliated against in violation of this policy should immediately report such incidents by following the procedures described in AP 3435. Supervisors are mandated to report all incidents of harassment and retaliation that come to their attention.

This policy applies to all aspects of the academic environment, including but not limited to classroom conditions, grades, academic standing, employment opportunities, scholarships, recommendations, disciplinary actions, and participation in any community college activity. In addition, this policy applies to all terms and conditions of employment, including but not limited to hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leave of absence, training opportunities and compensation.

To this end the Superintendent/President shall ensure that the institution undertakes education and training activities to counter discrimination and to prevent, minimize and/or eliminate any hostile environment that impairs access to equal education opportunity or impacts the terms and conditions of employment.

The Superintendent/President shall establish procedures that define harassment on campus. The Superintendent/President shall further establish procedures for employees, students, unpaid interns, volunteers, and other members of the campus community that provide for the investigation and resolution of complaints regarding harassment and discrimination, and

procedures for students to resolve complaints of harassment and discrimination. All participants are protected from retaliatory acts by the District, its employees, students, and agents.

This policy and related written procedures (including the procedure for making complaints) shall be widely published and publicized to administrators, faculty, staff, students, unpaid interns and, volunteers particularly when they are new to the institution. They shall be available for students, employees, unpaid interns, and volunteers in all administrative offices.

Employees who violate the policy and procedures may be subject to disciplinary action up to and including termination. Students who violate this policy and related procedures may be subject to disciplinary measures up to and including expulsion. Unpaid interns who violate this policy and related procedures may be subject to disciplinary measures up to and including termination from the internship or other unpaid work experience program.

See Administrative Procedures #3430 and #3435

Amended and Approved by the Board of Trustees: June, 14, 2016

Amended by the Board of Trustees: November 10, 2014

Amended by the Board of Trustees: October 9, 2012

Amended by the Board of Trustees: October 10, 2006

Amended by the Board of Trustees: November 11, 2003

Approved by the Board of Trustees: December 11, 2001

AP 3430 Prohibition of Harassment

References:

Education Code Sections 212.5; 44100; 66281.5;

Government Code Section 12940

Title IX, Education Amendments of 1972; Title 5, Sections 59320 et seq.;

Title VII of the Civil Rights Act of 1964, 42 U.S.C.A. Section 2000e

The District is committed to providing an academic and work environment free of unlawful harassment. This procedure defines sexual harassment and other forms of harassment on campus, and sets forth a procedure for the investigation and resolution of complaints of harassment by or against any staff or faculty member or student within the District.

This procedure and the related policy protects students, employees, unpaid interns and volunteers in connection with all the academic, educational, extracurricular, athletic, and other programs of the District, whether those programs take place in the District's facilities, a District bus, or at a class or training program sponsored by the District at another location.

Definitions

General Harassment: Harassment based on race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, or sexual orientation of any person, or military and veteran status, or the perception that a person has one or more of these characteristics is illegal and violates District policy. Harassment shall be found where, in aggregate, the incidents are sufficiently pervasive, persistent, or severe that a reasonable person with the same characteristics as the victim of the harassing conduct would be adversely affected to a degree that interferes with his or her ability to participate in or to realize the intended benefits of an institutional activity, employment or resource.

Gender-based harassment does not necessarily involve conduct that is sexual. Any hostile or offensive conduct based on gender can constitute prohibited harassment if it meets the definition above. For example, repeated derisive comments about a person's competency to do the job, when based on that person's gender, could constitute gender-based harassment. Harassment comes in many forms, including but not limited to the following conduct that could, depending on the circumstances, meet the definition above, or could contribute to a set of circumstances that meets the definition:

Verbal: Inappropriate or offensive remarks, slurs, jokes or innuendoes based on a person's race gender, sexual orientation, or other protected status. This may include, but is not limited to, inappropriate comments regarding an individual's body, physical appearance, attire, sexual prowess, marital status or sexual orientation; unwelcome flirting or propositions; demands for sexual favors; verbal abuse, threats or intimidation; or sexist, patronizing or ridiculing statements that convey derogatory attitudes based on gender, race nationality, sexual orientation or other protected status.

Physical: Inappropriate or offensive touching, assault, or physical interference with free movement. This may include, but is not limited to, kissing, patting, lingering or intimate touches, grabbing, pinching, leering, staring, unnecessarily brushing against or blocking another person, whistling or sexual gestures. It also includes any physical assault or intimidation directed at an individual due to that person's gender, race, national origin, sexual orientation or other protected status. Physical sexual harassment includes acts of sexual violence, such as rape, sexual assault, sexual battery, and sexual coercion. Sexual violence refers to 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. An individual also may be unable to give consent due to an intellectual or other disability.

Visual or Written: The display or circulation of visual or written material that degrades an individual or group based on gender, race, nationality, sexual orientation, or other protected status. This may include, but is not limited to, posters, cartoons, drawings, graffiti, reading materials, computer graphics or electronic media transmissions.

Environmental: A hostile academic or work environment may exist where it is permeated by sexual innuendo; insults or abusive comments directed at an individual or group based on gender, race, nationality, sexual orientation or other protected status; or gratuitous comments regarding gender, race, sexual orientation, or other protected status that are not relevant to the subject matter of the class or activities on the job. A hostile environment can arise from an unwarranted focus on sexual topics or sexually suggestive statements in the classroom or work environment. It can also be created by an unwarranted focus on, or stereotyping of, particular racial or ethnic groups, sexual orientations, genders or other protected statuses. An environment may also be hostile toward anyone who merely witnesses unlawful harassment in his/her immediate surroundings, although the conduct is directed at others. The determination of whether an environment is hostile is based on the totality of the circumstances, including such factors as the frequency of the conduct, the severity of the conduct, whether the conduct is humiliating or physically threatening, and whether the conduct unreasonably interferes with an individual's learning or work.

Sexual Harassment: In addition to the above, sexual harassment consists of unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature made by someone from or in, the work or educational setting when:

- submission to the conduct is explicitly or implicitly made a term or condition of an individual's employment, academic status, progress, internship or volunteer activity;
- submission to, or rejection of, the conduct by the individual is used as a basis of employment or academic decisions affecting the individual;
- the conduct has the purpose or effect of having a negative impact upon the individual's work or academic performance, or of creating an intimidating, hostile or offensive work or educational environment (as more fully described below); or
- submission to, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through the community college.

This definition encompasses two kinds of sexual harassment:

"Quid pro quo" sexual harassment occurs when a person in a position of authority makes educational or employment benefits conditional upon an individual's willingness to engage in or tolerate unwanted sexual conduct.

"Hostile environment" sexual harassment occurs when unwelcome conduct based on a person's gender is sufficiently severe or pervasive so as to alter the conditions of an individual's learning or work environment, unreasonably interfere with an individual's academic or work performance, or create an intimidating, hostile, or abusive learning or work environment. The victim must subjectively perceive the environment as hostile, and the harassment must be such that a reasonable person of the same gender would perceive the environment as hostile. A single or isolated incident of sexual harassment may be sufficient to create a hostile environment if it is severe, i.e. a sexual assault.

Sexually harassing conduct can occur between people of the same or different genders. The standard for determining whether conduct constitutes sexual harassment is whether a

reasonable person of the same gender as the victim would perceive the conduct as harassment based on sex.

Consensual Relationships

Romantic or sexual relationships between supervisors and employees, or between administrators, faculty or staff members and students are discouraged. There is an inherent imbalance of power and potential for exploitation in such relationships. A conflict of interest may arise if the administrator, faculty or staff member must evaluate the student's or employee's work or make decisions affecting the employee or student. The relationship may create an appearance of impropriety and lead to charges of favoritism by other students or employees. A consensual sexual relationship may change, with the result that sexual conduct that was once welcome becomes unwelcome and harassing. In the event that such relationships do occur, the District has the authority to transfer any involved employee to eliminate or attenuate the supervisory authority of one over the other, or of a teacher over a student. Such action by the District is a proactive and preventive measure to avoid possible charges of harassment and does not constitute discipline against any affected employee.

Academic Freedom

No provision of this Administrative Procedure shall be interpreted to prohibit conduct that is legitimately related to the course content, teaching methods, scholarship, or public commentary of an individual faculty member or the educational, political, artistic, or literary expression of students in classrooms and public forums. Freedom of speech and academic freedom are, however, not limitless and this procedure will not protect speech or expressive conduct that violates federal or California anti-discrimination laws.

Reviewed by the Board of Trustees: December 8, 2015

Reviewed by the Board of Trustees: October 14, 2014

Reviewed by the Board of Trustees: August 14, 2012

Reviewed by the Board of Trustees: October 10, 2006

Reviewed by the Board of Trustees: Nov. 11, 2003

Approved by the Board of Trustees: December 11, 2001



GAVILAN COLLEGE UNLAWFUL DISCRIMINATION COMPLAINT FORM

Name: _____
Last *First*

Address: _____
Street or P.O. Box *City* *State* *Zip*

Phone: Day (____) _____ Evening (____) _____

I Am A: Student Employee Other: _____

I Wish To Complain Against: _____

District: _____ College: _____

Date of Most Recent Incident of Alleged Discrimination: _____

(Nonemployment complaints must be filed within one year of the date of the alleged unlawful discrimination. Employment complaints must be filed within 180 days of the date of the alleged unlawful discrimination.)

I Allege Discrimination Based on the Following Category Protected under Title 5 (you must select at least one):

- Age Ethnic Group Identification National Origin Religion
- Ancestry Genetic Information Physical Disability Retaliation**
- Color Mental Disability Race Sex/Gender (includes Harassment)
- Sexual Orientation
- Perceived to be in protected category or associated with those in protected category

Clearly state your complaint. Describe each incident of alleged discrimination separately. For each incident provide the following information: 1) date(s) the discriminatory action occurred; 2) name of individual(s) who discriminated; 3) what happened; 4) witnesses (if any); and 5) why you believe the discrimination was because of your religion, age, race, sex or whatever basis you indicated above. **If applicable, explain why you believe you were retaliated against for filing a complaint or asserting your right to be free from discrimination on any of the above grounds. (Attach additional pages as necessary.)

What would you like the District to do as a result of your complaint -- what remedy are you seeking? _____

I certify that this information is correct to the best of my knowledge.

Signature of Complainant *Date*

Send **Original** to the District at: _____ OR
Gavilan Joint Community College District
Human Resources Department
5055 Santa Teresa Blvd, Gilroy, CA 95020

Chancellor's Office, California Community Colleges
1102 Q Street
Sacramento, CA 95811-6549
Attention: Legal Affairs Division

