

UNLAWFUL DISCRIMINATION AND UNLAWFUL HARASSMENT

Unlawful Discrimination Policy

The policy of the Contra Costa Community College District is to provide an educational and employment environment in which no person shall be unlawfully subject to discrimination on the basis of ethnic group identification, national origin, religion, sexual orientation, age, sex, sexual orientation, gender, race, color, medical condition, ancestry, marital status or physical or mental disability or because he/she is perceived to have one or more of the foregoing characteristics in any program or activity that is funded directly by, or that receives any financial assistance from the Chancellor or Board of Governors of the California Community Colleges. In so providing, the Contra Costa Community College District hereby implements the provisions of California Government Code sections 11135 through 11139.5, the Sex Equity in Education Act (Ed. Code, §66250 et seq.), Title VI and Title VII of the Civil Rights Act of 1964 (42 U.S.C. §2000d and §2000e-2(a)(1)), Title IX of the Education Amendments of 1972 (20 U.S.C. §1681), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794), the Americans with Disabilities Act of 1990 (42 U.S.C. §12100 et seq.) and the Age Discrimination Act (42 U.S.C. §6101), to the end that no person in the State of California shall, on the basis of ethnic group identification, national origin, religion, age, sex, race, color, ancestry, sexual orientation, or physical or mental disability, be unlawfully denied access to, the benefits of, or be unlawfully subjected to discrimination under any program or activity that is funded directly by, or that receives any financial assistance from, the Chancellor or Board of Governors of the California Community Colleges.

California Code of Regulations., Title 5, §59300; Government Code, §§11135-11139.5; Education Code, §66250 et seq.; 42 U.S.C. §2000d and §2000e-2(a)(1); 20 U.S.C. §1681; 29 U.S.C. §794; 42 U.S.C. §12100 et seq.; 42 U.S.C. §6101

Unlawful Harassment Policy

The policy of the Contra Costa Community College District is to provide an educational and employment environment free from unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct or communications constituting unlawful harassment. Employees, Governing Board Members, students, or other persons acting on behalf of the District who engage in unlawful harassment as defined in this policy or by state or federal law shall be subject to discipline, up to and including discharge, expulsion, or termination of contract.

California Code of Regulations., Title 5, §59326; Education Code, §66281.5; 20 U.S.C. §1681 et seq.

Prohibition of Retaliation

The District seeks to foster an environment in which all employees and students feel free to report incidents of harassment without fear of retaliation or reprisal. Therefore, the District also strictly prohibits retaliation against someone who files an unlawful harassment or other unlawful discrimination complaint, who refers a matter for investigation or complaint, who participates in an investigation of a complaint, who represents or serves as an advocate for an alleged victim or alleged offender, or who otherwise furthers the principles of this unlawful discrimination policy.

Employees who violate the policy and procedures may be subject to disciplinary action up to and including termination. Students who violate the policy and procedures may be subject to disciplinary measures up to and including expulsion.

20 U.S.C. §1681 et seq.; 34 C.F.R. §106;
California Code of Regulations, Title 5, §59300 et seq.;
*Revised Sexual Harassment Guidance: Harassment of Students
by School Employees, Other Students, or Third Parties, Title IX,
Office of Civil Rights, January 19, 2001*

Use of Explicit Classroom Material

The Contra Costa Community College District Board of Trustees reaffirms its commitment to academic freedom, but recognizes that academic freedom does not allow sexual harassment or any other form of unlawful discrimination. The lecture, content, and discourse that are an intrinsic part of the course content shall in no event constitute sexual harassment or other form of unlawful discrimination. It is recognized that an essential function of education is a probing of received opinions and an exploration of ideas that may cause some students discomfort. It is further recognized that academic freedom insures the faculty's right to teach and the student's right to learn. Nothing in these policies shall be interpreted to prohibit bona fide academic requirements for a specific community college program, course or activity.

To the extent the harassment policies and procedures are unreasonably in conflict with the District's policy on academic freedom, the harassment policies and procedures shall prevail. If a faculty member wishes to use sexually explicit materials in the classroom as a teaching technique and is unsure if such use would violate sexual harassment policy, the District recommends that the faculty member review that use with an administrator to determine whether or not such materials would violate the sexual harassment policy.

Definition of Sexual Harassment

1. Sexual harassment, under both federal and state law, is defined as unwelcome sexual advances, requests for sexual favors, and other unwelcome visual, verbal nonverbal, or physical conduct of a sexual nature. This definition includes numerous forms of offensive behavior and includes gender-based harassment of a person of the same or different sex as the harasser.
2. Sexual harassment is generally divided into two types of conduct:
 - a. Quid pro quo conduct, which occurs when submission to sexual conduct is made a condition for receiving concrete benefits, including hiring or advancement, or relates to employment or educational decisions affecting the employee or student.
 - b. Hostile environment sexual harassment
 - (1) Hostile work environment conduct, which is unwelcome sexual conduct sufficiently severe, persistent, or pervasive so as to affect an employee's performance negatively and/or alter the conditions of employment by creating an intimidating, hostile or otherwise offensive environment.
 - (2) Hostile learning environment sexually harassing conduct (which can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, visual, or physical conduct of a sexual nature) by an employee, by another student, or by a third party that is sufficiently severe, persistent, or pervasive to limit a student's ability to participate in, or benefit from, an education program or activity or to create a hostile or abusive learning environment.

3. Examples of the type of conduct which can constitute sexual harassment include, but are not limited to, the following:
 - a. Unwanted sexual advances.
 - b. Offering employment or educational benefits in exchange for sexual favors.
 - c. Making or threatening reprisal after a negative response to sexual advances.
 - d. Visual conduct (i.e., leering, making sexual gestures, displaying of sexually suggestive objects or pictures, cartoons, or posters.)
 - e. Verbal sexual advances or propositions.
 - f. Verbal abuse of a sexual nature, graphic verbal commentaries about an individual's body, sexually degrading words used to describe an individual, suggestive or obscene letters, notes, or invitations.
 - g. Physical conduct (i.e., touching, assault, impeding, or blocking movements).
4. In general, works of art and literature, readings and other written, auditory, or visual course materials, including lectures and discussions, which are used in a learning context or which are a part of academic or cultural programs, would not violate the prohibition against creating a hostile learning environment for students.
5. For example, a hostile learning environment, generally is not created by a detailed discussion of Shakespeare's Othello, in a literature class, despite the sexual content of some of its language, which might prove offensive to some. Similarly, the use of photographs of female or male genitalia in a human anatomy class text generally would also not create a hostile learning environment for students. On the other hand, the use of explicit photographs from sexually explicit magazines in the same human anatomy class generally would violate the prohibition of this policy against creating a hostile learning environment for students. An academic or work environment that is permeated with sexually-oriented talk, innuendo, insults, or abuse not relevant to the subject matter of the classified would also violate such prohibitions. A hostile environment can arise from an unwarranted focus on sexual topics or sexually suggestive statements in the classroom.

Cohen v. San Bernardino Valley College (1995) 883 F. Supp. 1407, 1412-1414 affirmed in part and reviewed in part on other grounds, (1996) 92 F.3d 968; California Code of Regulations, Title 5, §59302.

Historical Annotation:
Revised 4/6/83
Second Revision 1/1/85
Third Revision 8/15/89 (Amended per Board Policy 1011)
Fourth Revision 6/27/90
Fifth Revision 2/23/94
Sixth Revision 5/28/97
Seventh Revision 10/25/00
Eighth Revision 5/29/02
Ninth Revision 08/27/03
Tenth Revision 08/31/05

Related Policies:
Board Policy 2018

Related Procedures
Human Resources Procedure 1040.07
Management, Supervisory and Confidential Employees Personnel Manual 2.2