Note: This policy addresses employee complaints of sex and gender discrimination, sexual harassment, sexual violence, 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.

Definitions

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

“Gender Identity”
“Gender identity” means a person’s internal or personal sense of being a man or woman.

“Gender Expression”
“Gender expression” means the external manifestation of a person’s gender identity, usually expressed through masculine or feminine clothing, haircut, voice, or bodily characteristics. Typically, a person’s gender expression aligns with his or her gender identity.

Statement of Nondiscrimination
The College District prohibits discrimination, including harassment, against any employee on the basis of sex or gender. The College District respects the legal rights of individuals to work and learn in an environment that is free from unlawful discrimination, including sexual harassment and sexual violence, or any other basis prohibited by law. 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, including gender identity and gender expression, that adversely affects the employee’s employment.

Sexual Harassment
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. The conduct is so severe, persistent, or pervasive 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.

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 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 directed at another person's gender identity; and other sexually motivated conduct, communication, or contact.

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.

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 discrimination, 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 website.

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

Definition of College District Officials

Reports of discrimination based on sex, including sexual 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: Andrew Cantey
Position: Assistant Director of Human Resources
Address: 1327 South Baxter, Tyler, TX 75701
The College President or designee shall serve as coordinator for purposes of College District compliance with all other antidiscrimination laws.

An employee shall 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 coordinator, may be directed to the College President or designee.

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.

Reports of prohibited conduct shall be made as soon as possible 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.

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

The College District may request, but shall not insist upon, a written report. If a report is made orally, the College District official shall reduce the report to written form. The College District shall seek consent from the complainant prior to conducting an investigation unless the College District determines that the reported conduct is so sufficiently severe or pervasive that the College District must investigate.

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, 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 shall refer the complaint for consideration under the appropriate policy.

If appropriate, the College District shall promptly take interim action calculated to prevent prohibited conduct during the course of an investigation.
The investigation shall be conducted by one of the College District officials listed above or a designee. When appropriate, a third party, such as an attorney, may be designated as the investigator by the College District. Additionally, when appropriate, the supervisor shall be involved in or informed of the investigation.

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.

**Concluding the Investigation**

The investigator shall prepare a written report of the investigation. The report shall be filed with the College District official overseeing the investigation. Possible outcomes of the investigation are:

1. A judgment that the allegations are not warranted;
2. A negotiated settlement of the complaint; or
3. Initiation of formal action described below.

**College District Formal Action**

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 the following:

1. The highest level administrator shall thoroughly review the investigator's report and may request additional evidence, including testimony, documentation, or both, from the complainant, the accused, and other relevant witnesses. Failure of an employee to comply and cooperate with a request from the highest level administrator may be grounds for disciplinary action, including termination.

2. The highest level administrator shall make a decision, based upon a preponderance of the evidence presented, and shall inform the complainant and the accused within ten business days.

3. The highest level administrator shall promptly take appropriate disciplinary or corrective action, if any. Such action may include, but is not limited to, termination of employment. Any action that is adopted shall utilize existing Board policies and procedures of the College District for implementation, if necessary.

The College District may take action based on the results of an investigation, even if the conduct did not rise to the level of prohibited or unlawful 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 party who is dissatisfied with the outcome of the investigation may appeal through the applicable grievance policy beginning at the appropriate level. [See DGBA(LOCAL) for employees, FLD(LOCAL) for students, and GB(LOCAL) for community members]

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

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

Access to Policy  
This policy shall be made available to College District employees on the College District’s website. Copies of the policy shall be readily available at the College District administrative offices.