
Note: This policy addresses complaints of sex and gender discrimination, sexual harassment, sexual violence, dating violence, domestic violence, stalking, and retaliation targeting employees. For additional legally referenced material relating to discrimination, harassment, and retaliation, see DAA(LEGAL). For sex discrimination, sexual harassment, sexual violence, dating violence, domestic violence, stalking, and retaliation targeting students, see FFDA.

**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 and is prohibited.

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 a 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.
- 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.

<i>Sexual Violence</i>	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.
<i>Dating Violence</i>	"Dating violence" means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
<i>Domestic Violence</i>	"Domestic violence" means violence committed by: <ul style="list-style-type: none">• A current or former spouse or intimate partner of the victim;• A person with whom the victim shares a child in common;• A person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;• Any other member of the victim's family as defined by state law;• Any other current or former member of the victim's household as defined by state law;• A person in a dating relationship with the victim as defined by state law; or• Any other person who acts against the victim in violation of the family violence laws of this state or the jurisdiction where the conduct occurs.
<i>Stalking</i>	"Stalking" means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or suffer substantial emotional distress. For the purposes of this definition: <ol style="list-style-type: none">1. "Course of conduct" means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.2. "Reasonable person" means a reasonable person under similar circumstances and with similar identities to the victim.

<i>Examples</i>	<p>Examples of sexual harassment of an employee may include sexual advances; touching intimate body parts; coercing or forcing a sexual act on another; jokes or conversations of a sexual nature; sexual assault as defined by law; offensive or derogatory language directed at another person's gender identity; and other sexually motivated conduct, communication, or contact.</p> <p>Examples may also include forms of dating violence, domestic violence, or stalking, such as physical or sexual assaults; name-calling; put-downs; or threats directed at the employee, the employee's family members, or members of the employee's household; destroying the employee's property; threatening to commit suicide or homicide if the employee ends the relationship; tracking the employee; attempting to isolate the employee from friends and family; threatening an employee's spouse or partner; or encouraging others to engage in these behaviors.</p>
Prohibited Conduct	In this policy, the term "prohibited conduct" includes discrimination, sexual harassment, dating violence, domestic violence, stalking, and retaliation as described by this policy, even if the behavior does not rise to the level of unlawful conduct.
Complainant	In this policy, the term "complainant" refers to an employee who is alleged to have experienced prohibited conduct.
Respondent	In this policy, the term "respondent" refers to a person who is alleged to have committed prohibited conduct.
Confidential Employee	A "confidential employee" is a person who holds a professional license requiring confidentiality, such as a counselor or medical provider, who is supervised by such a person, or a person who is a nonprofessional counselor or advocate designated in administrative procedures as a confidential source.
Reporting Procedures	A victim of prohibited conduct has the right to report the incident to the College District and to receive a prompt and equitable resolution of the report.
Reporting by Alleged Victim	<p>An employee who believes that he or she has experienced prohibited conduct may report the alleged acts to his or her immediate supervisor, to the Title IX coordinator, or to the College President or designee.</p> <p>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. An employee shall not be required to report prohibited conduct to the person alleged to have committed the conduct.</p>

Alternatively, the employee may report electronically through the College District's website.

A victim of a crime has the right to choose whether to report the crime to law enforcement, to be assisted by the College District in reporting the crime to law enforcement, or to decline to report the crime to law enforcement.

It is important that a victim of prohibited conduct go to a hospital for treatment and preservation of evidence, if applicable, as soon as practicable after the incident.

Reporting by Other
Employees

Any employee who believes that another employee has experienced prohibited conduct, regardless of when or where the incident occurred, shall immediately report the alleged acts to the Title IX coordinator. Additionally, the employee may report to the College President or designee.

A report against the College President must also 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.

Exceptions

Disclosure at
Event

A person who received the information solely from a disclosure at a sexual harassment, sexual assault, dating violence, or stalking public awareness event sponsored by a postsecondary educational institution or by an employee organization affiliated with the institution is not required to report the prohibited conduct unless the person has authority to institute corrective measures on behalf of the College District.

Employee
Subject to
Confidentiality
Rules

Absent the employee's consent, or unless required by law, a confidential employee shall only be required to disclose the type of incident reported and may not disclose information that would violate the employee's expectation of privacy. If multiple confidential employees receive information about the same alleged incident, then only one report disclosing the type of incident must be submitted.

Prior Report

A person who has either learned of an incident of prohibited conduct during the course of the College District's review or process, or has confirmed with the person or office overseeing the review or process that the incident has been previously reported, is not required to report the prohibited conduct.

Title IX Coordinator

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, and related state and federal laws:

Title IX Coordinator: Andrew Cantey, Director, Human Resources
Address: 1327 South Baxter, Tyler, TX 75701
Telephone: (903) 510-2186
Email: [Title IX Coordinator email¹](#)
Webpage: [Title IX/Sexual Misconduct webpage²](#)

Responsible Employees	All employees, with the exception of confidential employees, are designated as responsible employees for purposes of compliance with Title IX.
Timely Reporting	A failure to immediately report prohibited conduct may impair the College District's ability to investigate and address the conduct.
Consolidate Reports	When the allegations underlying two or more complaints arise out of the same facts or circumstances, the College District may consolidate the complaints.
Advisor	Each party to a complaint may be assisted by an advisor of the party's choice who may participate in the proceedings in a manner consistent with College District procedures.
Conflict of Interest Prohibited	No person designated as the Title IX coordinator, a deputy Title IX coordinator, an investigator, a decision-maker, or a facilitator of an informal resolution process shall have a conflict of interest or bias.
Training	A person designated as the Title IX coordinator, a deputy Title IX coordinator, an investigator, a decision-maker, or a facilitator of an informal resolution process shall receive training as required by law and College District procedures.
Days	"Days" shall mean College District business days, unless otherwise noted. In calculating timelines under this policy, the day a document is filed is "day zero." The following business day is "day one."
Extension of Timelines	Timelines established by this policy and associated procedures may be subject to a limited extension if good cause, as defined in this policy and College District regulations, exists. The College District shall promptly provide written notice to the parties of an extension and the reason for the extension. A limited delay determined to be necessary so as not to impede a criminal or regulatory investigation shall constitute good cause for an extension of timelines established by this policy and associated procedures.
Investigation of the Report	The College District may request, but shall not insist upon, a written report. If a report is made orally, the Title IX coordinator or designee 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.

Initial Assessment

Upon receipt or notice of a report, the Title IX coordinator shall determine whether the allegations, if proven, would constitute prohibited conduct as defined by this policy. If so, the Title IX coordinator shall promptly offer supportive measures to the complainant. The Title IX coordinator shall explain the process for filing a formal complaint and assess any request not to investigate. If the College District moves forward with the investigation, the Title IX coordinator shall immediately provide notice to the known parties to the complaint.

If the Title IX coordinator 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 Title IX coordinator shall refer the complaint for consideration under the appropriate policy.

Request Not to Investigate

The complainant may request that the College District not investigate the allegations. If the complainant requests that the allegations not be investigated, in deciding whether to initiate the investigation, the College District must consider the factors described by law and any other factors the College District considers relevant.

The College District shall promptly notify the complainant of the decision regarding whether it will conduct the investigation. If the College District decides not to investigate the allegations, the College District shall take reasonable steps to protect the health and safety of the College District community.

Formal Complaint

To be considered a formal complaint under Title IX, the complainant or the Title IX coordinator must sign the written report.

Notice to Parties

The notice to the parties must describe the allegations and the formal and informal options for resolution of the complaint. The notice must state that the respondent is presumed not responsible until a determination regarding responsibility is made. The notice must also include information regarding the option to select an advisor, the opportunity to inspect and review evidence, and the prohibition on knowingly making false statements or submitting false information during the investigation and any ensuing proceedings.

If the allegations are subsequently amended, the College District shall provide an updated notice reflecting the new allegations.

Informal Resolution	The College District may offer to the parties a process for the informal resolution of a formal complaint as defined by law. If the parties voluntarily agree in writing to participate in informal resolution of a formal complaint, the Title IX coordinator shall determine within three days if informal resolution is appropriate for the complaint. If the Title IX coordinator determines that informal resolution is appropriate, then the Title IX coordinator or designee may facilitate that resolution within ten days. If the Title IX coordinator does not determine informal resolution to be appropriate, then the complaint will be subject to the formal resolution process.
Formal Resolution	If the complaint is not subject to the informal resolution process, the Title IX coordinator shall authorize or undertake an investigation.
Supportive Measures	If appropriate and regardless of whether a criminal or regulatory investigation regarding the alleged conduct is pending, the Title IX coordinator shall promptly provide supportive measures intended to prevent prohibited conduct, protect the safety of the parties and others, and protect the parties from retaliation prior to the completion of the investigation. Examples of possible supportive measures include work accommodations, such as leaves of absence or administrative leave; mutual restrictions on contact between the parties; counseling and health services; and increased security and monitoring of certain areas of the campus.
College District Investigation	<p>The investigation may be conducted by the Title IX coordinator or a designee or by a third party designated by the College District, such as an attorney. When appropriate, the supervisor shall be involved in or informed of the investigation.</p> <p>The investigation may consist of personal interviews with the complainant, the respondent, 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.</p> <p>The parties shall be provided an equal opportunity to present witnesses and evidence and to inspect and review any directly related evidence obtained by the College District so that the parties may meaningfully respond during the investigation process. The parties expected to participate in an investigative interview or other meeting shall be provided written notice in enough time to prepare to participate.</p> <p>At least ten days prior to the completion of the investigation report, the College District must send each party and the party's advisor evidence subject to inspection and review. The parties may submit a written response for consideration by the investigator.</p>

Concluding the Investigation

The investigation shall be completed within a reasonable time, not to exceed 30 days from the date of the report.

The investigator shall prepare a written report of the investigation. The investigation report shall be filed with the Title IX coordinator within five days following the completion of 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.

Notification of the Report

The Title IX coordinator shall provide the investigation report, within the extent permitted by law, to the complainant and the respondent promptly following receipt. The parties shall be given ten days to respond to the report.

College District Formal Action

The Title IX coordinator shall submit the investigation report to the executive director for human resources promptly after receipt of the parties' response but no later than the expiration of the parties' deadline to respond.

The executive director for human resources or designee shall summon the parties for a hearing to be held within a reasonable time, not to exceed ten days. The hearing shall be conducted in accordance with law and College District procedures.

After the hearing, the executive director for human resources or designee shall determine whether each individual allegation of prohibited conduct occurred using a preponderance of evidence standard and determine the appropriate disciplinary or corrective action. In making the determination, the executive director for human resources or designee shall evaluate all relevant evidence objectively and shall not make credibility assessments based on a person's status as the complainant, the respondent, or a witness. The executive director for human resources or designee shall create a written determination regarding responsibility that explains its rationale in accordance with law and College District procedures within five days following the hearing and submit the determination to the parties simultaneously.

Hearing Procedures

In addition to any other procedures allowed by law and deemed necessary by the decision-maker, the following procedures shall apply to the live hearing:

1. A presumption of innocence is applied.
2. If a panel is the decision-maker, a majority vote is applied to all decisions.

3. Each party may have an advisor present. If one side does not have one, the College District will provide one for cross-examination, as all cross-examination must be done indirectly through an advisor.
4. As a general rule (with few limited exceptions), the complainant's sexual history cannot be addressed.
5. A party may refuse to be cross-examined. If a party refuses to be cross-examined, the decision-maker cannot infer guilt but also cannot rely on that party's statements.
6. Expert witnesses on relevant topics will be allowed.
7. The decision-maker must make relevance determinations on cross-examination.

If either party makes a request, then the parties must be put in separate rooms for the entire hearing, and each room must have technology to hear the other room. Hearings will not be open to the public and will be reasonably limited as to time allowed by both sides, as determined by the decision-maker.

Disciplinary or
Corrective Action

If the executive director for human resources or designee determines that prohibited conduct occurred, the College District shall promptly respond by taking appropriate disciplinary or corrective action reasonably calculated to address the conduct.

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.

Examples of disciplinary or corrective action may include:

- Implementing the disciplinary measures described in DH and the DM series for employees or FM for students;
- Providing a training program for those involved in the complaint;
- Providing a comprehensive education program for the College District community;
- Providing counseling for the victim and the student who engaged in prohibited conduct;
- Permitting the victim or student engaged in the prohibited conduct to drop a course in which they both are enrolled without penalty;
- Conducting follow-up inquiries to determine if any new incidents or any instances of retaliation have occurred;

- Involving employees in efforts to identify problems and improve the College District climate;
- Increasing staff monitoring of areas where prohibited conduct has occurred;
- Reaffirming the College District's policy against discrimination and harassment; and
- Taking other actions described in College District regulations.

Exception

The College District shall minimize attempts to require a complainant 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.

Improper Conduct

If the executive director for human resources or designee determines that improper conduct occurred 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.

Dismissal of Complaint

Mandatory Dismissal

An allegation presented as a formal complaint under Title IX is subject to the mandatory dismissal procedures under law.

Permissive Dismissal

Any complaint may be dismissed at any time on request of a complainant. The Title IX coordinator must first assess the request in accordance with this policy at Request Not to Investigate, above.

A complaint may also be dismissed if specific circumstances prevent the College District from gathering evidence sufficient to reach a determination as to the complaint or allegations.

Notice of Dismissal

Upon dismissal of a complaint, the Title IX coordinator or the executive director for human resources or designee shall provide the parties written notice of the dismissal.

Confidentiality

To the greatest extent possible, consistent with law, the College District shall respect the privacy of the complainant or the respondent or a person who makes a report or serves as a witness. Limited disclosures may be necessary to carry out the purposes of this policy and associated regulations and to comply with applicable law.

Retaliation

The College District prohibits retaliation against any person for the purpose of interfering with a right or privilege under this policy; the complainant; or a person who, in good faith, makes a report or complaint, serves as a witness, or otherwise participates or refuses

to participate in an investigation, proceeding, or hearing under this policy. This prohibition does not apply to discipline of a person who perpetrated or assists in the perpetration of the prohibited conduct.

A person who is alleged to have experienced retaliation may pursue a claim under this policy or policy FFDA, as appropriate.

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.

Failure to Report and False Claims

An employee who fails to make a required report or an employee or student who intentionally makes a false claim, offers a false statement, or refuses to cooperate with a College District investigation regarding prohibited conduct shall be subject to appropriate disciplinary action.

Appeal

Either the complainant or respondent may appeal a determination of responsibility or dismissal of a formal complaint on the following bases, if those bases affected or could affect the outcome:

1. A procedural irregularity that affects the outcome;
2. New evidence not reasonably available at the time of the determination regarding responsibility or dismissal; and/or
3. A conflict of interest or bias on the part of the Title IX coordinator, investigator, or decision-maker against a party.

An appeal must be filed in writing with the College President within three business days from the determination of responsibility or dismissal or it is invalid. Notice of the filing of the appeal must be given to both parties, and both parties must have a reasonable opportunity to submit a written statement supporting or challenging the outcome.

The appeal will be considered by at least one member of the College President's cabinet. The cabinet member will issue a written decision to both parties at the same time that includes the result and basic rationale for same. This decision is final, and there is no further appeal or right to grieve, except as set forth specifically below.

If a term/contractual employee is the respondent and suspension without pay or termination of employment is the final decision, then the appropriate College District policy and procedure related to termination of a term/contractual employee will apply to the extent the respondent invokes same. There is no automatic appeal or applica-

tion of these policies. If not timely invoked by the respondent, according to the applicable policy/procedure, then the final decision stands.

Complaints Filed
with State or
Federal Agencies

A party shall be informed of any 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,
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 to applicants for admission and employment and annually to College District employees, students, and parents or guardians of dual credit 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 and any materials used to train a person designated as the Title IX coordinator, a deputy Title IX coordinator, an investigator, a decision-maker, or a facilitator shall also be prominently published on the College District's website on a dedicated page accessible through a clear link on the homepage, 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 an employee who makes a report.

¹ Title IX Coordinator email: <mailto:acan2@tjc.edu>

² Title IX/Sexual Misconduct webpage:
https://www.tjc.edu/info/20017/consumer_information/14/title_ix