Note: This policy addresses complaints of sex discrimination, sexual harassment, sexual assault, and retaliation targeting students. For legally referenced material relating to discrimination, harassment, and retaliation, see FA(LEGAL). For sex discrimination, sexual harassment, sexual assault, and retaliation targeting employees, see DIAA.

**Statement of Nondiscrimination**

The College District prohibits discrimination, including harassment, against any student on the basis of sex, gender, gender identity, or gender expression. 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 sex or gender that adversely affects the student.

**Definitions**

- **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.

**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 in a school 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 limits or denies the student’s ability to participate in or benefit from the College District’s educational program.

- **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 limits or denies a student’s ability to participate in or benefit from the College District’s educational program.
| Prohibited Conduct | 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 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. |
| Gender-Based Harassment | Gender-based harassment includes physical, verbal, or nonverbal conduct based on the student’s gender identity, 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 limits or denies a student’s ability to participate in or benefit from the College District’s educational program. |
| False Claims | 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 | 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. |
| | 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. |
| | 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

### Student Report
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 the Title IX coordinator or another employee or submit the report electronically through the College District’s website. The submission of an anonymous electronic report may impair the College District’s ability to investigate and address the prohibited conduct.

### Employee Report
Any College District employee who suspects or receives notice that a student or group of students has or may have experienced prohibited conduct shall immediately notify the Title IX coordinator and shall take any other steps required by this policy. 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 a student organization affiliated with the institution is not required to report the prohibited conduct.

#### Employee Subject to Confidentiality Rules
Absent the student’s consent, a person who holds a professional license requiring confidentiality, such as a counselor, 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 shall only be required to disclose the type of incident reported. The person may not disclose information that would violate the student’s expectation of privacy.

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

### Title IX Coordinator
Reports of discrimination based on sex, including sexual harassment and 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:** Andrew Cantey
- **Position:** Assistant Director of Human Resources
- **Address:** 1327 South Baxter, Tyler, TX 75701
- **Telephone:** (903) 510-2186
<table>
<thead>
<tr>
<th>Other Anti-discrimination Laws</th>
<th>The College President or designee shall serve as coordinator for purposes of College District compliance with all other antidiscrimination laws.</th>
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<tbody>
<tr>
<td>Alternative Reporting Procedures</td>
<td>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 Title IX coordinator, may be directed to the College President.</td>
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<td></td>
<td>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.</td>
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<td>Timely Reporting</td>
<td>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.</td>
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<td>Investigation of the Report</td>
<td>The College District may request, but shall not require, a written report. If a report is made orally, the College District official shall reduce the report to written form.</td>
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<td>Initial Assessment</td>
<td>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 notify the parties to the complaint of the allegations and the formal and informal options for resolution of the complaint. 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.</td>
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<tr>
<td>Informal Resolution</td>
<td>If the parties voluntarily agree to participate in informal resolution of the complaint, the College District official shall determine if informal resolution is appropriate for the complaint. If the official determines that informal resolution is appropriate, then the official may facilitate that resolution. If the official does not determine informal resolution to be appropriate, then the complaint will be subject to the formal resolution process.</td>
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<tr>
<td>Formal Resolution</td>
<td>If any of the parties decline to participate in informal resolution of the complaint or the College District official finds informal resolution of the complaint to be inappropriate, the College District official shall authorize or undertake an investigation, except as provided below at Criminal Investigation.</td>
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<td>Interim Action</td>
<td>If appropriate and regardless of whether a criminal or regulatory investigation regarding the alleged conduct is pending, the College District shall promptly take interim action calculated to address prohibited conduct prior to the completion of the College District’s investigation.</td>
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<td>College District Investigation</td>
<td>The investigation may be conducted by the College District official or a designee or by a third party designated by the College District, such as an attorney. The investigator shall have received appropriate training regarding the issues related to the complaint and the relevant College District’s policy and procedures. 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.</td>
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<tr>
<td>Criminal Investigation</td>
<td>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 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.</td>
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<tr>
<td>Concluding the Investigation</td>
<td>Absent extenuating circumstances, such as a request by a law enforcement or regulatory agency for the College District to delay its investigation, the investigation should be completed within ten 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.</td>
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<td>Unfounded Allegations</td>
<td>If the results of an investigation indicate that no prohibited conduct occurred, the allegations shall be dismissed as unfounded. The College District shall provide written notice of the dismissal and that shall be the official outcome, unless the decision is appealed.</td>
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<tr>
<td>Notification of the Outcome</td>
<td>The College District shall provide written notice of the outcome to the victim and the accused to the extent permitted law. The parties shall be given the opportunity to respond to the report.</td>
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If the accused accepts the finding and any sanctions by signing a written waiver of hearing, then no hearing shall be held and no appeal shall be available. If the accused rejects the finding or sanctions, a hearing shall be held to determine responsibility.

The Title IX hearing shall be conducted by a standing committee created to oversee sexual misconduct complaints. All decisions by the panel shall be made by a majority vote of the panel members present at the hearing.

The hearing shall be conducted in accordance with the following:

1. Hearings shall not be open to the public.
2. An audio recording of each hearing shall be made.
3. Reasonable time limits shall be imposed by the panel, which shall not exceed two hours per party, unless the panel allows for a longer time limit.
4. The hearing panel shall be able to reasonably limit evidence and shall exclude irrelevant sexual history and any other irrelevant matters.
5. The College District may, if requested by the complainant, present the complaint against the accused on his or her behalf. The complainant shall merely be a witness.
6. The College District may provide an adviser for the complainant, and, if so, that adviser has a right to attend the hearing.
7. The complainant, or the College District if it is presenting on behalf of the complainant, shall present evidence first, followed by the accused.
8. The College District discourages the parties from cross-examining each other directly.
9. A preponderance of the evidence standard shall apply.

The complainant shall have the right to:

1. Testify and/or speak on his or her own behalf;
2. Be represented or otherwise supported by an attorney or adviser;
3. Not be in the same room as the accused;
4. Present evidence, including witnesses;
5. Be informed of the outcome; and
6. Appeal the outcome.
**Accused Rights**

The accused shall have the right to:

1. Testify and/or speak on his or her own behalf;
2. Be represented or otherwise supported by an attorney or advisor;
3. Present evidence, including witnesses;
4. Be informed of the outcome;
5. Have a written copy of the investigation and its findings, which shall include the alleged violations of the policy; and
6. Review any information that will be offered against him or her prior to the time of the hearing, to the extent allowed by the Family Educational Rights and Privacy Act (FERPA) or other applicable law.

**Hearing Outcome**

The College District shall provide written notice to both parties of the outcome of the hearing within ten days after the hearing date, unless additional time is necessary.

**College District Action**

The College District shall determine, based on the results of the investigation, whether each individual allegation of misconduct occurred using a preponderance of the evidence standard. 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 to prevent its reoccurrence and remedy the effects.

**Prohibited Conduct**

**Corrective Action**

Examples of corrective action may include:

- 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 students in efforts to identify problems and improve the College District climate;
Increasing staff monitoring of areas where prohibited conduct has occurred; and

Reaffirming the College District’s policy against discrimination and harassment.

Exception
The College District shall minimize attempts to 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.

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
The College District shall respect the privacy of the complainant, persons against whom a report is filed, and witnesses. To the greatest extent possible, the College District shall honor requests for confidentiality; however, such requests may limit the College District’s ability to respond to the incident and pursue disciplinary action. The Title IX coordinator shall evaluate all requests for confidentiality. 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] A party shall be informed of his or her right to file a complaint with the U.S. 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
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.