
Note: This policy addresses complaints of discrimination, harassment, and retaliation based on race, color, national origin, religion, or disability targeting students. For legally referenced material relating to this subject matter, see FA(LEGAL). For discrimination, harassment, and retaliation targeting employees based on race, color, national origin, religion, or disability, see DIAB.

STATEMENT OF
NONDISCRIMINATION

The College District prohibits discrimination, including harassment, against any student on the basis of race, color, religion, national origin, disability, age, marital status, veteran status, limited English proficiency, 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.

DISCRIMINATION

Discrimination against a student is defined as conduct directed at a student on the basis of race, color, religion, national origin, disability, age, marital status, veteran status, limited English proficiency, or on any other basis prohibited by law, that adversely affects the student.

PROHIBITED
HARASSMENT

Prohibited harassment of a student is defined as physical, verbal, or nonverbal conduct based on the student's race, color, religion, national origin, disability, age, or any other basis prohibited by law that 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.

EXAMPLES

Examples of prohibited harassment may include offensive or derogatory language directed at another person's religious beliefs or practices, accent, skin color, or need for accommodation; threatening, intimidating, or humiliating conduct; offensive jokes, name-calling, slurs, or rumors; physical aggression or assault; display of graffiti or printed material promoting racial, ethnic, or other negative stereotypes; or other kinds of aggressive conduct such as theft or damage to property.

RETALIATION

The College District prohibits retaliation by a student or College District employee against a student alleged to have experienced discrimination or harassment or another student who, in good faith, makes a report of harassment or discrimination, serves as a witness, or otherwise participates in an investigation.

EXAMPLES

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.

FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION
OTHER PROTECTED CHARACTERISTICS

FFDB
(LOCAL)

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| FALSE CLAIMS | 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. |
| 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 | 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 a responsible employee. |
| STUDENT REPORT | |
| EMPLOYEE REPORT | Any College District employee who suspects and any responsible employee who receives notice that a student or group of students has or may have experienced prohibited conduct shall immediately notify the appropriate College District official listed in this policy and shall take any other steps required by this policy. |
| EXCEPTIONS | <p>A person who holds a professional license requiring confidentiality, such as a counselor, or who is supervised by such a person shall not be required to disclose a report of prohibited conduct without the student’s consent.</p> <p>A person who is a nonprofessional counselor or advocate designated in administrative procedures as a confidential source shall not be required to disclose information regarding an incident of prohibited conduct that constitutes personally identifiable information about a student or other information that would indicate the student’s identity without the student’s consent, unless the person is disclosing information as required for inclusion in the College District’s annual security report under the Clery Act. [See GAC]</p> |
| RESPONSIBLE EMPLOYEE | <p>For purposes of this policy, a “responsible employee” is an employee:</p> <ol style="list-style-type: none">1. Who has the authority to remedy prohibited conduct.2. Who has been given the duty of reporting incidents of prohibited conduct.3. Whom a student reasonably believes has the authority to remedy prohibited conduct or has been given the duty of reporting incidents of prohibited conduct. <p>The College District designates the following persons as responsible employees: any instructor, any administrator, or any College District official defined below.</p> |

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OTHER PROTECTED CHARACTERISTICS

FFDB
(LOCAL)

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| DEFINITION OF COLLEGE DISTRICT OFFICIALS | For the purposes of this policy, College District officials are the ADA/Section 504 coordinator and the College President. |
| ADA / SECTION 504 COORDINATOR | Reports of discrimination based on disability may be directed to the ADA/Section 504 coordinator. The College District designates the following person to coordinate its efforts to comply with Title II of the Americans with Disabilities Act of 1990, as amended, which incorporates and expands the requirements of Section 504 of the Rehabilitation Act of 1973, as amended: Name: Andrew Cantey Position: Assistant Director of Human Resources Address: 1327 South Baxter, Tyler, TX 75701 Telephone: (903) 510-2186 |
| OTHER ANTI-DISCRIMINATION LAWS | The College President or designee shall serve as coordinator for purposes of College District compliance with all other antidiscrimination laws. |
| ALTERNATIVE REPORTING PROCEDURES | 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 ADA/Section 504 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. |
| TIMELY REPORTING | 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. |
| INVESTIGATION OF REPORT | 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. The College District shall seek consent from the complainant prior to conducting an investigation unless the College District determines in good faith that failure to investigate does not adequately mitigate potential harm to the complainant or other members of the community. |
| INITIAL ASSESSMENT | 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. |

FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION
OTHER PROTECTED CHARACTERISTICS

FFDB
(LOCAL)

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| INTERIM ACTION | 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. |
| COLLEGE DISTRICT INVESTIGATION | <p>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.</p> <p>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.</p> <p>The purpose of the investigation is to establish whether or not there is a reasonable basis to believe that the alleged conduct occurred. The College District investigator shall interview the complainant, the accused, and other persons believed to have pertinent factual information.</p> |
| CRIMINAL INVESTIGATION | 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. |
| CONCLUDING THE INVESTIGATION | <p>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.</p> <p>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:</p> <ol style="list-style-type: none"><li data-bbox="560 1745 1289 1776">1. A judgement that the allegations are not warranted;<li data-bbox="560 1801 1192 1833">2. A negotiated settlement of the complaint; or<li data-bbox="560 1858 1170 1885">3. Initiation of formal action described below. |

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OTHER PROTECTED CHARACTERISTICS

FFDB
(LOCAL)

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| NOTIFICATION OF THE OUTCOME | The College District shall provide written notice of the outcome, within the extent permitted by the Family Educational Rights and Privacy Act (FERPA) or other law, to the victim and the person against whom the complaint is filed. |
| COLLEGE DISTRICT 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 College District policy and procedures [see FM and FMA]. |
| PROHIBITED CONDUCT | |
| CORRECTIVE ACTION | Examples of corrective action may include a training program for those involved in the complaint, a comprehensive education program for the College District community, counseling for the victim and the student who engaged in prohibited conduct, 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. |
| 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 | 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 student or the person accused who is dissatisfied with the outcome of the investigation may appeal to the assistant vice president, athletics and student life. A student 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, 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 annually to College District employees and students in compliance with law and in a manner calculated to provide easy access and wide distribution, such as through electronic distribution and inclu- |

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sion in the employee and student handbooks and other major College District publications. Information regarding the policy, procedures, and related materials shall also be prominently published on the College District's website, 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 a student who makes a report upon request.