
Note: This policy addresses employee complaints of sex and gender discrimination and sexual misconduct, including 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

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

**Statement of
Nonviolence and
Nondiscrimination**

The College District prohibits any and all forms of sexual violence including, but not limited to: domestic violence, dating violence, rape, sexual assault, and stalking. The College District likewise prohibits discrimination, including harassment, against any employee on the basis of sex or gender. Retaliation against anyone involved in the complaint process is a violation of College District policy.

In furtherance of these prohibitions, the College District shall establish regular programs designed to educate students and staff regarding the prevention and reporting of sexual violence and harassment. Such programs shall include all of the elements required by law.

Discrimination

Discrimination against an employee is conduct directed at an employee on the basis of sex or gender that adversely affects the employee’s employment.

**Sexual Harassment
and Sexual Violence**

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 without the person’s consent. “Consent” means assent in fact in accordance with law.

Sexual assault is any unwanted, nonconsensual sexual contact against an individual by another. Sexual assault can occur either forcibly (against a person's will) or when a person cannot give consent (under the age of consent, intoxicated, developmentally disabled, or mentally/physically unable to consent).

Rape is nonconsensual sexual intercourse that involves the use or threat of force, violence, or immediate and unlawful bodily injury or threats of future retaliation and duress. Rape includes nonconsensual sexual intercourse when the person is incapable of giving consent because he or she is incapacitated from alcohol and/or drugs, or if a mental disorder or developmental or physical disability renders the victim incapable of giving consent.

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.

An employee who intentionally makes a false claim, offers false statements, or refuses to cooperate with a College District investigation regarding sexual violence, harassment, or discrimination is subject to appropriate discipline.

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 sexual violence, 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 a CSA [as defined in CHA(LOCAL)], the employee's supervisor, 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 Chancellor.

Definition of College District Officials	The Chancellor shall designate a Title IX coordinator and investigator(s). The College District shall publish the contact information for the Title IX coordinator/investigator(s) on the College District web-site . ¹
Title IX Coordinator	
Other Anti-discrimination Laws	The Chancellor or designee shall serve as coordinator for purposes of College District compliance with all other antidiscrimination laws.
Alternative Reporting Procedures	<p>An employee is not required to report prohibited conduct to the person alleged to have committed it. A report against the Title IX coordinator may be directed to the Chancellor or designee.</p> <p>A report against the Chancellor or designee 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.</p>
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.
Notice of Report	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.
Investigation of the Report	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.
Initial Assessment	<p>Upon receipt or notice of a report, the College District official shall first notify the Campus Police Department to determine whether the allegation requires a criminal investigation. If the allegation does not require a criminal investigation, the College District official shall then 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.</p> <p>The College District official shall ensure that the victim receives written notice about existing counseling, health, mental health, victim advocacy, legal assistance, and other services available for victims both on-campus and in the community. The College District official shall ensure that the victim receives written notification of the options for, and available assistance in adjusting working conditions, if so requested and if such accommodations are reasonably available, regardless of whether the victim chooses to report the allegation to campus police or local law enforcement.</p>

If the College District official determines that the allegations, if proven, would not constitute prohibited conduct as defined by this policy, the College District official shall refer the complaint for consideration under the appropriate policy.

Formal Resolution The College District official shall authorize or undertake an investigation, except as provided below. The College District shall establish procedures for formal resolution in accordance with law.

Interim Action If appropriate, the College District shall promptly take interim action calculated to prevent prohibited conduct during the course of an investigation.

College District Investigation 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. 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

Absent extenuating circumstances, 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.

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.

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 protect 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 complainant who is dissatisfied with the outcome of the investigation may appeal through the applicable grievance policy begin-

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SEX AND SEXUAL VIOLENCE

DIAA
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ning at the appropriate level. [See DGBA(LOCAL) for employees, FLD(LOCAL) for students, and GB(LOCAL) for community members]

The complainant 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, 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 inclusion 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 an employee who makes a report.

¹ College District Title IX website: <http://www.blinn.edu/title-ix/index.html>