
Note: This policy addresses complaints of sex discrimination and sexual misconduct, including sexual harassment, sexual violence, 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
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 student on the basis of sex or gender. Retaliation against anyone involved in the complaint process is a violation of College District policy and is prohibited.

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 a student is conduct directed at a student on the basis of sex or gender that adversely affects the student.

**Sexual Harassment
and Sexual Violence**

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 misconduct when the misconduct 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.

Sexual Violence	<p>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.</p>
	<p>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).</p> <p>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.</p>
Examples	<p>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.</p> <p>Physical contact not reasonably construed as sexual in nature is not sexual harassment.</p>
Gender-Based Harassment	<p>Gender-based harassment includes physical, verbal, or nonverbal conduct based on the student's gender, 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.</p>
Examples	<p>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.</p>
Retaliation	<p>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,</p>

	<p>makes a report of harassment or discrimination, serves as a witness, or otherwise participates in an investigation.</p>
Examples	<p>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.</p>
False Claims	<p>A student who intentionally makes a false claim, offers false statements, or refuses to cooperate with a College District investigation regarding sexual violence, discrimination, or harassment shall be subject to appropriate disciplinary action.</p>
Prohibited Conduct	<p>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.</p>
Timely Reporting	<p>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.</p>
Reporting Procedures	
Student Report	<p>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 College District police, to the Title IX coordinator or another employee, or submit the report electronically¹ through the College District’s website. College District personnel shall assist the student in reporting the alleged misconduct if the student requests such assistance. Submission of an anonymous electronic report may impair the College District’s ability to investigate and address the prohibited conduct.</p> <p>The College District shall publish procedures in the administrative regulations regarding options for reporting offenses to law enforcement, the importance of preserving evidence as may be necessary to prove an allegation under this policy. The procedures shall include information about victims’ rights and the institutions’ responsibilities regarding orders of protection, no contact orders, restraining orders, or similar lawful orders issued by a criminal, civil, or tribal court.</p>
Employee Report	<p>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 Chancellor or designee.</p>

	<p>A report against the Chancellor 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.</p>
<p><i>Exceptions</i></p>	<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 GCC].</p>
<p>Disclosure at Event</p>	<p>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.</p>
<p>Employee Subject to Confidentiality Rules</p>	<p>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.</p>
<p>Definition of College District Officials</p>	<p>For the purposes of this policy, College District officials are the Title IX coordinator/investigator and the Chancellor.</p>
<p>Title IX Coordinator / Investigator</p>	<p>Reports of discrimination based on sex, including sexual harassment and gender-based harassment, may be directed to the Title IX coordinator/investigator. The Chancellor shall designate a Title IX coordinator and investigator(s). Contact information for the Title IX coordinator/investigator(s) shall be published on the College District's website.²</p>
<p>Other Anti-discrimination Laws</p>	<p>The Chancellor or designee shall serve as coordinator for purposes of College District compliance with all other antidiscrimination laws.</p>
<p>Alternative Reporting Procedures</p>	<p>A student is not required to report prohibited conduct to the person alleged to have committed the conduct. A report against the Title IX coordinator/investigator 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>
Investigation of the Report	<p>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.</p>
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 official shall immediately notify the parties to the complaint of the allegations and the formal and informal options for resolution of the complaint. The College District official shall also ensure that the victim and accused receive any legally required written notices regarding:</p> <ol style="list-style-type: none">1. Existing counseling, health, and mental health services;2. Victim advocacy and legal assistance;3. Any other relevant services available, both on-campus and in the community; and4. Any options for, and available assistance in, changing academic, living, transportation, and working situations, if so requested by either the victim or accused, and whether 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 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 and/or process.</p>
Informal Resolution	<p>If the parties voluntarily agree to participate in informal resolution of the complaint, and the College District official determines that informal resolution is appropriate for the complaint, then the official may facilitate that resolution. If the official determines that informal resolution is not appropriate, then the complaint will be subject to the formal resolution process.</p>
Formal Resolution	<p>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 is inappropriate, the College District official shall authorize or undertake an investigation, except as provided below</p>

	<p>at Criminal Investigation. The College District shall establish procedures for formal resolution in accordance with law.</p>
<p>Interim Action</p>	<p>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.</p>
<p>College District Investigation</p>	<p>The investigation may be conducted by the College District official or designee(s) 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>Criminal Investigation</p>	<p>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.</p>
<p>Concluding the Investigation</p>	<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.</p>
<p><i>Notification of the Outcome</i></p>	<p>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. The parties shall be given the opportunity to respond to the report.</p>

**College District
Action**

Prohibited Conduct

Utilizing the preponderance of the evidence standard, the College District shall determine, based on the results of the investigation, whether each individual allegation or misconduct occurred. If the results of an investigation indicate that prohibited conduct occurred, the College District shall promptly respond by taking appropriate disciplinary, corrective, or protective action reasonably calculated to address the conduct, in accordance with College District policy and procedures [see FM and FMA].

*Disciplinary and
Protective Action*

Examples of disciplinary action that the College District may take include, but are not limited to:

- Temporary or permanent expulsion from the College District;
- Implementation of a no contact order; and
- Eviction from College District housing.

Corrective Action

Examples of corrective action that the College District may provide include, but are not limited to:

- 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;
- Permitting the victim or student engaged in the prohibited conduct to move out of a campus dorm or apartment 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.

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 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 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, 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 a student who makes a report.

¹ Title IX electronic report: <http://www.blinn.edu/title-ix/reporting-form.HTML>

² Title IX Coordinator contact information: <http://www.blinn.edu/title-ix/index.html>