

# CITRUS COMMUNITY COLLEGE DISTRICT HUMAN RESOURCES

## AP 7102.1 Prohibition of Harassment: Students

References: Education Code Sections 212.5, 66250, 66262.5, 66270, 66281.5, and 66301; Civil Code Sections 51 and 51.7; Government Code Section 11135, et seq.; California Code of Regulations, Title 5, Section 59300, et seq.; Title 22, Section 98000, et seq.; Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. § 2000d); Title IX of the Education Amendments of 1972, as amended (20 USC § 1681); The Age Discrimination Act of 1975, as amended (42 U.S.C. § 6101); Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794)

### General Provisions

The District is committed to providing an academic environment free of unlawful harassment. This procedure defines sexual harassment and other forms of harassment on campus, and sets forth a procedure for the investigation and resolution of complaints of harassment by or against any student within the District.

### Definitions

**General Harassment** - Harassment based on race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, gender, gender identity, gender expression, age, or sexual orientation of any person, or the perception that a person has one or more of these characteristics is illegal and violates District policy. However, such conduct will not constitute harassment for students unless it is (a) unprotected by the First Amendment under established law, and (b) severe, pervasive, and objectively offensive under established law, as determined by an investigation conducted pursuant to 5 California Code of Regulations section 59300 et seq., or Board Policy 5500 and Administrative Procedure 5520 (relating to student discipline), so as to constitute harassment as a matter of law.

Gender-based harassment does not necessarily involve conduct that is sexual. Any hostile, severe, pervasive and objectively offensive conduct based on gender can constitute prohibited harassment. Harassment comes in many forms, including, but not limited to, the following conduct (when such conduct is determined to constitute harassment as a matter of law and is unprotected by the First Amendment under established law):

- Verbal: Slurs or innuendoes based on a person's race, gender, sexual orientation, marital status or other protected status; unwelcome flirting or propositions; demands for sexual favors; threats; or intimidation.

- **Physical:** Assault or battery (which may include unwelcomed kissing, grabbing, groping, or pinching, as examples), physical interference with free movement, or intimidation directed at an individual due to that person's gender, race, national origin, sexual orientation, or other protected status.
- **Environmental:** The creation of a hostile academic environment may constitute harassment. The determination of whether an environment is hostile is based on the totality of the circumstances, including such factors as the frequency of the conduct, the severity of the conduct, whether the conduct is humiliating or physically threatening, and whether the conduct unreasonably interferes with an individual's learning.

**Sexual Harassment** - In addition to the above, sexual harassment consists of unwelcome sexual advances, requests for sexual favors, and other conduct of a sexual nature when:

- submission to the conduct is made a term or condition of an individual's academic status or progress;
- submission to, or rejection of, the conduct by the individual is used as a basis of academic decisions affecting the individual;
- the conduct is so severe, pervasive, and objectively offensive that the victim is effectively denied access to an educational opportunity or benefit; or,
- submission to, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through the community college.

This definition encompasses two kinds of sexual harassment:

**“Quid pro quo”** sexual harassment occurs when a person in a position of authority makes educational benefits conditional upon an individual's willingness to engage in or tolerate unwanted sexual conduct.

**“Hostile environment”** sexual harassment occurs when unwelcome conduct based on a person's gender is severe, pervasive and objectively offensive under established law, based on the totality of the circumstances, that it effectively denies the victim of participation in or the benefits of any educational program or activity. The victim must subjectively perceive the environment as hostile, and the harassment must be such that a reasonable person of the same gender would perceive the environment as hostile. The determination of whether an environment is hostile is based on the totality of the circumstances, including such factors as the frequency of the conduct, the severity of the conduct, whether the conduct is humiliating or physically threatening, and whether the conduct unreasonably interferes with an individual's learning.

Sexually harassing conduct can occur between people of the same or different genders. The standard for determining whether conduct constitutes sexual harassment is whether a reasonable person of the same gender as the victim would perceive the conduct as harassment based on sex.

### **Consensual Relationships**

Romantic or sexual relationships between students and administrators, faculty, or staff members are discouraged. There is an inherent imbalance of power and potential for exploitation in such relationships. A conflict of interest may arise if the administrator, faculty, or staff member must evaluate the student's work or make decisions affecting the student. The relationship may create an appearance of impropriety and lead to charges of favoritism by other students. A consensual sexual relationship may change, with the result that sexual conduct that was once welcome becomes unwelcome and harassing. In the event that such relationships do occur, the District has the authority to transfer any involved employee to eliminate or attenuate the authority of the employee over a student.

Such action by the District is a proactive and preventive measure to avoid possible charges of harassment and does not constitute discipline against any affected employee.

### **Complaint Procedure**

Allegations of sexual harassment will be reviewed pursuant to the complaint procedure set forth under Administrative Procedure 7101.1 – Discrimination Complaint Procedure: Students. The terms “discrimination” or “unlawful discrimination” as used in Administrative Procedure 7101 shall include sexual harassment.

### **Academic Freedom and Harassment**

The District is committed to creating an environment where there is the full and free discussion of ideas and where students are free from a hostile learning environment. Works of art and literature, readings and other written, auditory, or visual course materials, including lectures and discussions, which are used in a learning context or which are a part of academic or cultural programs, do not violate the prohibition against creating a hostile learning environment for students.

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