

Chapter 3 - General Institution

BP 3430 Prohibition of Harassment

References:

Education Code Sections 212; 44100; 66252; 66281.5; Government Code Section 12926; 12950; 12950.1; 12951; Code of Regulations 11053; Title VII of the Civil Rights Act of 1964; 42 U.S.C.A. § 2000e; 38 C.F.R.; Title IX Educational Amendments of 1972.

I. Policy Statement:

The policy of Mt. San Antonio College is to provide an educational and employment environment free from Harassment. The College prohibits Harassment, including Sexual Harassment, based on any Protected Category, including: ethnic group identification, national origin, immigration status, religion, age, sex, or gender, gender identification, gender expression, military and veteran status, marital status, medical condition, race, color, ancestry, sexual orientation, or physical or mental disability, or any other characteristic protected under applicable federal or state law. These protected categories are in compliance with Title 5 regulations that protected persons and groups, or those associated with them, shall neither be denied full and equal access to the benefits of, nor be subjected to harassment under, any program or activity that is administered by, funded directly by, or that receives any financial assistance from, the Chancellor or Board of Governors of the California Community Colleges., based upon an actual or perceived characteristic listed in this section.

If a responsible employee knows, or reasonably should have known, of an incident of harassment they must report such incidents to the Title IX Coordinator or designee as soon as practically possible.

The College prohibits employees from entering into a consensual romantic and/or sexual relationship with any student or employee over whom they exercise direct or otherwise significant academic, administrative, advisory, supervisory, evaluative, counseling, or extracurricular authority. If such a relationship exists, employees must notify the Title IX Coordinator immediately. In the event that such a relationship occurs, the College has the authority to transfer any student or employee to eliminate or reduce the authority that an employee or student has over the individual with whom they are in a relationship.

BP 3540 and AP 3540 are the appropriate policies and procedures for addressing the following forms of harassment: Sexual Misconduct, (including incest, sexual assault, sexual battery, sexual exploitation and rape) Dating Violence, Domestic Violence, and Stalking.

The College shall respond promptly and effectively to all complaints of harassment and shall take appropriate action to prevent, investigate, correct, and

discipline conduct that infringes upon this policy. Investigations into complaints of harassment will be conducted in accordance with the procedures set forth in AP 3430, Prohibition of Harassment and AP 3435, Discrimination and Harassment Investigations.

Procedures for addressing Harassment shall be administered in accordance with AP 3430 and shall be widely publicized to all students and employees of the institution.

II. Policy Definitions

A. Harassment¹ means unwelcome conduct engaged in because of an individual's Protected Category and:

1. submission to the conduct is made a term or condition of an individual's employment, academic status, or progress, internship, or volunteer activity;
2. submission to, or rejection of, the conduct by the individual is used as a basis of employment or academic decisions affecting the individual;
3. the conduct has the purpose or effect of having a negative impact upon the individual's work or academic performance, or of creating an intimidating, hostile, or offensive work or educational environment; or
4. submission to, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual regarding working conditions, employment or enrollment status, benefits and services, or activities available at or through the community college.

Harassment includes, but is not limited to, verbal harassment (e.g., epithets, derogatory comments, or slurs), physical harassment (e.g., unwanted touching, assault, or impeding or blocking movement), and visual forms of harassment (e.g., derogatory posters, videos, pictures, cartoons, drawings, symbols, or gestures.)

Unwelcome conduct means conduct that is sufficiently severe or pervasive that its effect, whether or not intended, could be considered by person similarly situated to the Complainant, and is in fact considered by the Complainant, as limiting their participation in or benefit from the services, activities or opportunities offered by the College.

B. Protected Category includes ethnic group identification, national origin, immigration status, religion, age, sex, or gender, gender identification, gender expression, military and veteran status, marital status, medical condition, race, color, ancestry, sexual orientation, or physical or mental disability, or any other characteristic protected under applicable federal or state law.

¹ See Cal. Ed. Code § 212.5; 66262.5

- C. Responsible Employee² is any employee who has the authority to take action to redress Harassment; who has been given the duty of reporting incidents of Harassment or any other misconduct by students to the appropriate school designee; or whom an individual could reasonably believe has this authority or duty. At the College that includes all College employees.
- D. Sexual Harassment³, means unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone from or in the work or educational setting, under any of the following conditions:
1. Submission to the conduct is explicitly or implicitly made a term or a condition of an individual's employment, academic status, or progress.
 2. Submission to, or rejection of, the conduct by the individual is used as the basis of employment or academic decisions affecting the individual.
 3. The conduct has the purpose or effect of having a negative impact upon the individual's work or academic performance, or of creating an intimidating, hostile, or offensive work or educational environment.
 4. 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 educational institution.

Sexual Harassment is a form of harassment based on sex/gender, gender identity, gender expression, or sexual orientation. Individuals of any gender can be the target or sexual harassment. Sexual harassment does not have to be motivated by sexual desire.

"Quid pro quo" sexual harassment occurs when an individual makes educational or employment benefits conditional upon sex/gender, gender identity, gender expression, or sexual orientation.

"Hostile environment" sexual harassment occurs when unwelcome conduct, based on sex/gender, gender identity, gender expression, or sexual orientation, is sufficiently severe or pervasive so as to unreasonably interfere with an individual's academic or work performance; or create an intimidating, hostile, or offensive learning or working environment. The complainant 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.

Sexually harassing conduct can occur between people of the same or different genders. The standard for determining whether conduct constitutes

² See 2001 Revised Sexual Harassment Guidance, Office of Civil Rights

³ See Cal. Ed. Code § 212.5, 66262.5

sexual harassment is whether a reasonable person of the same gender as the complainant would perceive the conduct as sufficiently severe or pervasive, and based on sex/gender, gender identity, gender expression, or sexual orientation.

All forms of harassment are contrary to basic standards of conduct between individuals and are prohibited by State and federal law, as well as this policy, and will not be tolerated. The College is committed to providing an academic and work environment that respects the dignity of individuals and groups. The College shall be free of sexual harassment and all forms of sexual intimidation and exploitation including acts of sexual violence. It shall also be free of other unlawful harassment including that which is based on any of the following statuses: race, religious creed, color, national origin, ancestry, physical disability, mental disability, mental condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, military status, or veteran status of any person, or because he or she is perceived to have one or more of the foregoing characteristics.

Any student or employee who believes that he or she has been harassed or retaliated against in violation of this policy should immediately report such incidents by following the procedures delineated in the Administrative Regulations and Procedures. Supervisors are mandated to report all incidents of harassment and retaliation that come to their attention.

The College seeks to foster an environment in which all employees and students feel free to report incidents of harassment without fear of retaliation or reprisal. Therefore, the College also strictly prohibits retaliation against any individual for filing a complaint of harassment or for participating in a harassment investigation. Such conduct is illegal and constitutes a violation of this policy. All allegations of retaliation will be swiftly and thoroughly investigated. If the College determines that retaliation has occurred, it will take all reasonable steps within its power to stop such conduct. Individuals who engage in retaliatory conduct are subject to disciplinary action, up to and including termination or expulsion.

This policy applies to all aspects of the academic environment including, but not limited to, classroom conditions, grades, academic standing, employment opportunities, scholarships, recommendations, disciplinary actions, and participation in any community college activity. In addition, this policy applies to all terms and conditions of employment including, but not limited to, hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leave of absence, training opportunities, and compensation.

To this end, the College President/CEO shall ensure that the institution undertakes education activities and training to counter discrimination and to prevent, minimize, and/or

~~eliminate any hostile environment that impairs access to equal education opportunity or impacts the terms and conditions of employment.~~

~~The College President/CEO shall establish procedures that define harassment on campus. The College President/CEO shall further establish procedures for employees, students, and other members of the campus community that provide for the investigation and resolution of complaints regarding harassment and discrimination, and procedures for students to resolve complaints of harassment and discrimination. All participants are protected from retaliatory acts by the College, its employees, students, and agents.~~

~~This policy and related written procedures including the procedure for making complaints shall be widely published and publicized to administrators, faculty, staff, and students, particularly when they are new to the institution. They shall be available for students and employees in all administrative offices.~~

~~Employees who violate the policy and procedures may be subject to disciplinary action up to and including termination. Students who violate this policy and related procedures may be subject to disciplinary measures up to and including expulsion.~~