

## Chapter 3 - General Institution

### AP 3430 Prohibition of Harassment

#### References:

Education Code Sections 212.5, 44100, and 66281.5; Title IX, Education Amendments of 1972; Title 5 Sections 59320 et seq.; Title VII of the Civil Rights Act of 1964, 42 U.S.C.A. § 2000e.

The College is committed to providing an academic and work 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 staff or faculty member or student within the College.

#### Definitions:

**General Harassment:** Harassment based on race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation, or military or veteran status of any person, or the perception that a person has one or more of these characteristics is illegal and violates College policy. Gender-based harassment does not necessarily involve conduct that is sexual. Any hostile or offensive conduct based on gender can constitute prohibited harassment.

Harassment comes in many forms, including but not limited to the following conduct:

- Verbal: Inappropriate or offensive remarks, slurs, jokes or innuendoes based on a person's race, gender, sexual orientation, or other protected status. This may include, but is not limited to, inappropriate comments regarding an individual's body, physical appearance, attire, marital status or sexual orientation; unwelcome flirting or propositions; demands for sexual favors; verbal abuse, threats or intimidation; or sexist, patronizing or ridiculing statements that convey derogatory attitudes based on gender, race, nationality, sexual orientation, disability, or other protected status.
- Physical: Inappropriate or offensive touching, assault, or physical interference with free movement. This may include, but is not limited to, kissing, patting, lingering or intimate touches, grabbing, pinching, leering, staring, unnecessarily brushing against or blocking another person, whistling or sexual gestures. It also includes any physical assault or intimidation directed at an individual due to that person's gender, race, national origin, sexual orientation, disability, or other protected status.
- Visual or Written: The display or circulation of visual or written material that degrades an individual or group based on gender, race, nationality, sexual orientation, disability, or other protected status. This may include, but is not limited to, posters, cartoons, drawings, graffiti, reading materials, computer graphics or electronic media transmissions.

- **Environmental**: A hostile academic or work environment exists where it is permeated by sexual innuendo; insults or abusive comments directed at an individual or group based on gender, race, nationality, sexual orientation, disability, or other protected status; or gratuitous comments regarding gender, race, sexual orientation, disability, or other protected status that are not relevant to the subject matter of the class or activities on the job. A hostile environment can arise from an unwarranted focus on sexual topics or sexually suggestive statements in the classroom or work environment. It can also be created by an unwarranted focus on, or stereotyping of, particular racial or ethnic groups, sexual orientations, genders, disabilities, or other protected statuses. An environment may also be hostile toward anyone who merely witnesses unlawful harassment in his or her immediate surroundings, although the conduct is directed at others. A final scenario for a hostile work environment is one in which behaviors are directed at specific individuals for the purpose of aggressively humiliating, belittling, and/or ridiculing them. 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 or work.

**Sexual Harassment:** 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 employment, academic status, or progress;
- submission to, or rejection of, the conduct by the individual is used as a basis of employment or academic decisions affecting the individual;
- 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
- 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.

This definition encompasses two kinds of sexual harassment:

- "**Quid pro quo**" sexual harassment occurs when a person in a position of authority makes educational or employment 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 or specific attributes is sufficiently severe or pervasive so as to alter the conditions of an individual's learning or work environment, unreasonably interfere with an individual's academic or work performance, or create an intimidating, hostile, or abusive learning or work environment. The victim must subjectively perceive the environment as hostile, and the harassment must be such that a reasonable person 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 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 supervisors and employees or between managers, faculty or staff members and students are discouraged. There is an inherent imbalance of power and potential for exploitation in such relationships. A conflict of interest may arise if the manager, faculty or staff member must evaluate the student's or employee's work or make decisions affecting the employee or student. The relationship may create an appearance of impropriety and lead to charges of favoritism by other students or employees. 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 College has the authority to transfer any involved employee to eliminate or attenuate the supervisory authority of one over the other, or of a teacher over a student. Such action by the College is a proactive and preventive measure to avoid possible charges of harassment and does not constitute discipline against any affected employee.

### **Academic Freedom**

To the extent the harassment policies and procedures are in conflict with the College's policy on academic freedom, the harassment policies and procedures shall prevail. If the faculty member wishes to use sexually explicit materials in the classroom as a teaching technique, the faculty member must review that use with the Department Chairperson and Division Dean who may consult with the Human Resources Office to determine whether or not this violates the sexual harassment policy.

### **Sexual Harassment Training**

By January 1, 2006, Mt. San Antonio College shall provide at least two hours of classroom or other effective interactive training and education regarding sexual harassment to all supervisory employees who are employed as of July 1, 2005. All new supervisory employees must be provided with the training and education within six months of their assumption of a supervisory position. After January 1, 2006, Mt. San Antonio College shall provide sexual harassment training and education to each supervisory employee once every two years.

The training and education required by this procedure shall include information and practical guidance regarding the federal and State statutory provisions concerning the prohibition against and the prevention and correction of sexual harassment and the remedies available to victims of sexual harassment in employment. The training and education shall also include practical examples aimed at instructing supervisors in the prevention of harassment, discrimination, and retaliation and shall be presented by trainers or educators with knowledge and expertise in the prevention of harassment, discrimination, and retaliation.

Training of all staff will be conducted. Training for academic staff should emphasize environmental harassment in the classroom.

In years in which a substantive policy or procedural change has occurred, all College employees will attend a training update and/or receive a copy of the revised policies and procedures.

A training program or informational services will be made available to all students at least once annually. The student training or informational services shall include an explanation of the policy, how it works, and how to file a complaint.

Participants in training programs will be required to sign a statement that they have either understood the policies and procedures, their responsibilities, and their own and the College's potential liability, or that they did not understand the policy and desire further training.

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