



HARASSMENT POLICY & COMPLAINT PROCEDURE



*SOUTH
ORANGE
COUNTY
COMMUNITY
COLLEGE
DISTRICT*



WHAT IS HARASSMENT?



Office of Human Resources
(949) 582-4850
socccd.edu



The South Orange County Community College District (the "District") is committed to providing an academic and work environment free of unlawful harassment. This publication defines sexual harassment and other forms of harassment prohibited on campus, and sets forth the procedure for the investigation and resolution of complaints of harassment by or against any staff or faculty member or student within the District.

This policy protects students and employees in connection with all the academic, educational, extracurricular, athletic, and other programs of the District, whether those programs take place in the District's facilities, a District vehicle, or at a class or training program sponsored by the District at another location.

DEFINITIONS

General Harassment: Harassment based on gender, gender identity, gender expression, sex, marital status, race, age, color, religion, national origin, ethnicity, disability, medical condition, genetic information, sexual orientation, or any legally protected characteristic, or the perception that a person has one or more of these characteristics is illegal and violates District policy. Gender-based harassment does not necessarily involve conduct that is sexual. Any hostile or offensive conduct based on gender can constitute prohibited harassment. For example, repeated derisive comments about a person's competency to do the job, when based on that person's gender, could constitute gender-based 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 legally protected status. This may include, but is not

limited to, inappropriate comments regarding an individual's body, physical appearance, attire, sexual prowess, 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 or other legally protected status(es).

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 or other protected status. Physical sexual harassment includes acts of sexual violence, such as rape, sexual assault, sexual battery, and sexual coercion. Sexual violence refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's use of drugs or alcohol. An individual also may be unable to give consent due to an intellectual or other disability.

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 or other legally protected status. This may include, but is not limited to, posters, cartoons, drawings, graffiti, reading materials, computer graphics or electronic media transmissions.



GENERAL HARASSMENT

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 or other legally protected status(es); or gratuitous comments regarding gender, race, sexual orientation, or other legally protected status(es) that are not relevant to the subject matter of the class or activities on the job. For example, 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 or other legally 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. 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: Sexual harassing conduct can occur between people of the same or different gender. 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. 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 employment benefits, 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 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 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 of the same gender would perceive the

environment as hostile. A single or isolated incident of sexual harassment may be sufficient to create a hostile environment if it is severe, i.e. a sexual assault.

WHAT ARE YOUR RIGHTS?

Federal and state laws and District policies afford employees and students the right to work or learn in an environment free from discriminatory intimidation, ridicule, and insult. The District and its colleges are responsible for maintaining a climate that is free of illegal harassment and extends this right to all programs, services, and activities conducted by the District and its colleges, including, but not limited to, work experience, apprenticeship, internship, clinical training, extended day, community services, and other programs, services, and activities.

WHAT ARE THE COMPLAINT PROCEDURES?

Importance of Filing a Timely Complaint

Since failure to report harassment impedes the District's ability to stop the behavior, the District strongly encourages anyone who feels harassed to file such complaints within 30 days of the alleged incident. While all complaints are taken seriously and will be investigated promptly, delay in filing impedes the District's ability to investigate and remediate. All supervisors and managers have a mandatory duty to report incidents of harassment or discrimination, the existence of a hostile, offensive or intimidating work environment, and acts of retaliation. The District will investigate complaints involving acts that occur off campus if they are related to an academic or work activity. A complaint is related to an academic or work



activity if it involves any District program, whether those programs take place in the District's facilities, a District vehicle, or at a class or training program sponsored by the District at another location.

Importance of Communicating that the Conduct Is Unwelcome

Except in cases where there has been an assault, the District further encourages students and staff to let the offending person know immediately and firmly that the conduct or behavior is unwelcome, offensive, in poor taste and/or inappropriate. 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.



Oversight of Complaint Procedure

“Designated officers” are charged with receiving complaints, and coordinating their investigation. The actual investigations of complaints may be assigned to other staff or outside persons or organizations under contract with the District whenever the “designated officer” is named in the complaint or implicated by the allegations in the complaint. Individuals who believe they have been subjected to unlawful discrimination, including harassment, may report complaints by contacting any of the following “designated officers.”

Vice President of Student Services
Irvine Valley College
5500 Irvine Center Drive
Irvine, CA 92618
(949) 451-5624

Vice President of Student Services
Saddleback College
28000 Marguerite Parkway
Mission Viejo, CA 92692
(949) 582-4566

Vice Chancellor, Human Resources and
Employer/Employee Relations
South Orange County Community College District
28000 Marguerite Parkway
Mission Viejo, CA 92692
(949) 582-4850

WHEN TO FILE A COMPLAINT

A student, employee or third party who believes he or she has been harassed in violation of these policies and procedures should make a complaint orally or in writing as soon as possible and within one year of the date of the alleged harassment or the date on which the complainant knew or should have known of the facts underlying the complaint.

Any District employee who receives a complaint concerning employment harassment or discrimination shall notify the Vice Chancellor, Human Resources and Employer/Employee Relations immediately.

If a complainant decides to file a formal written unlawful discrimination or harassment complaint against the District, he/she may file the complaint on a form prescribed by the California Community Colleges Chancellor's office. These approved forms are available on the California Community Colleges Chancellor's website, or the District website.

The completed form must be filed with any of the following:

- The Vice Chancellor, Human Resources, if the complainant is an employee;
- The Vice President, Student Services, if the complainant is a student;
- The California Community Colleges Chancellor's Office

Employee complainants may also file employment discrimination complaints with the U.S. Equal Employment Opportunity Commission (EEOC) or the California Department of Fair Employment and Housing (DFEH).

Complaints filed with the EEOC and/or the DFEH will be forwarded to the California Community Colleges Chancellor's Office.

INITIAL INFORMATION AND CHOICES PROVIDED TO THE COMPLAINANT

When a person brings charges of harassment to the attention of a designated officer, that officer will:

- (1) Undertake efforts to informally resolve the charges;
- (2) Advise the complainant that he or she need not participate in informal resolution and that he or she has the right to end the informal resolution process at any time;
- (3) Notify the person bringing the charges of his or her right to file a formal complaint and explain the procedure for doing so;
- (4) Inform the complaint if he or she does not desire to utilize the informal complaint resolution process or the process has not been successful, the complainant may follow the formal resolution process, described below;

(5) Advise the complainant that he or she may file a non-employment-based complaint with the Office for Civil Rights of the U.S. Department of Education (OCR) where such a complaint is within that agency's jurisdiction;

(6) If the complaint is employment-related, the complainant will also be advised that he or she may file a complaint with the U.S. Equal Employment Opportunity Commission (EEOC) and/or the California Department of Fair Employment and Housing (DFEH) where such a complaint is within that agency's jurisdiction.

(7) If the complaint includes allegations of sexual assault, advise the complainant that he/she has a right to file a complaint with local law enforcement. The district will investigate even if the complainant files a complaint with local law enforcement.

(8) Advise the complainant of available resources, depending on the situation, such as counseling, health, and mental health services.

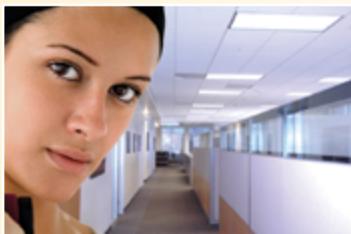
(9) Advise the complainant that the District will also notify the Chancellor of California Community Colleges of the complaint.

INFORMAL RESOLUTION OF HARASSMENT COMPLAINTS

Efforts at informal resolution need not include an investigation unless the responsible District officer determines that an investigation is warranted by the seriousness of the charges. Selecting an



informal resolution does not extend the time limitations for filing a formal complaint. The informal resolution process is intended to allow an individual who believes he or she has been harassed to resolve the issue through an informal or mediation process rather than the formal complaint process. A complainant may wish to select the informal process when there is a simple misunderstanding or the complainant does not wish to file a formal complaint. Examples of informal complaint resolutions include clarification of a misunderstanding or an apology from the respondent and his or her assurance that he or she will cease the offending behavior.

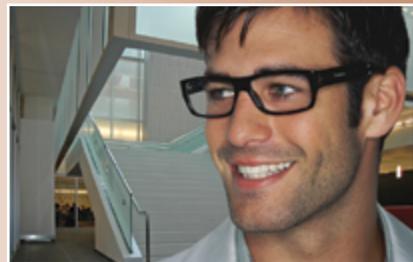


If the complainant declares his or her preference for the informal process, the designated officer will present the complainant with a document that contains the basics of complainant's allegations of harassment and will include a copy of this pamphlet describing the formal and informal complaint procedures available to the complainant. The complainant will date and sign the informal complaint document which will clearly indicate that the complainant opted for the informal resolution process.

The informal resolution process is not a prerequisite to the formal complaint process and investigation. If the complainant properly files a formal complaint, the District must process the complaint and investigation within the time required unless the complainant voluntarily withdraws the complaint as a result of a successful informal resolution. Similarly, efforts at informal resolution

may continue after the filing of a formal written complaint, but after a formal complaint is filed an investigation is required to be conducted pursuant to Title 5, California Code of Regulations, section 59334, and will be completed unless the matter is informally resolved and the complainant dismisses the complaint. Efforts to informally resolve a complaint after the filing of a written complaint will not exceed the 90-day period for rendering the administrative determination pursuant to Title 5, section 59336.

In employment-related cases, if the complainant files a charge with the Department of Fair Employment and Housing (DFEH), a copy of that filing will be sent to the State Chancellor's Office requesting a determination of whether a further investigation under Title 5 is required. Unless the State Chancellor's Office determines that a separate investigation is required, the District will discontinue its investigation under Title 5 and the matter will be resolved through the DFEH.



The District is committed to maintaining a safe and harassment free educational environment and may determine that serious allegations may need to be investigated even if the complaining party considers the matter resolved. The District may also determine that the complaint will no longer be held informally, and instead should proceed to the formal complaint procedure stage. The District will provide the complainant with written notice of this determination via United States mail.

DISTRICT FORMAL COMPLAINT PROCEDURES

Complainants may file formal written complaints on a form prescribed by the State Chancellor. These approved forms are available at any of the following:

Vice President of Student Services
Irvine Valley College
5500 Irvine Center Drive
Irvine, CA 92618 • (949) 451-5624

Vice President of Student Services
Saddleback College
28000 Marguerite Parkway
Mission Viejo, CA 92692 • (949) 582-4566

Vice Chancellor, Human Resources and
Employer/Employee Relations
South Orange County Community College District
(SOCCCD)
28000 Marguerite Parkway
Mission Viejo, CA 92692
(949) 582-4850

SOCCCD website:
socccd.edu

Saddleback College website:
saddleback.edu

Irvine Valley College website:
ivc.edu

Advanced Technology & Education Park website:
atep.us

California Community Colleges State Chancellor's
Office website:
cocco.edu

The completed form must be filed at the Office of the Vice President of Student Services for students or at the District's Office of Human Resources for employees and all other individuals or mailed directly to the State Chancellor's Office of the California Community Colleges.

Upon receiving a formal written complaint, the District will determine if the complaint has met the necessary requirements listed on the following page.

- The complaint should be filed on a form provided by the District or the State Chancellor's Office.
- The complaint must allege unlawful discrimination prohibited under Title 5, section 59300.
- The complaint must be filed by an individual who alleges that he or she has personally suffered unlawful discrimination or by an individual who has learned of such unlawful discrimination in his or her official capacity as a faculty member or administrator.
- In any complaint not involving employment, the complaint must be filed within one year of the date of the alleged unlawful discrimination or within one year of the date on which the complainant knew or should have known of the facts underlying the specific incident or incidents of alleged unlawful discrimination.
- In any complaint alleging harassment in employment, the complaint shall be filed within 180 days of the date the alleged harassment occurred, except that this period will be extended by no more than 90 days following the expiration of that 180 days if the complainant first obtained knowledge of the facts of the alleged violation after the expiration of 180 days.



The District will return a defective complaint to the complainant immediately with a complete explanation of why an investigation could not be initiated under Title 5, section 59300 et seq. Upon receiving a properly filed complaint, the District will advise the individual(s) accused of engaging in harassment of the general nature of the complaint. The District will also advise the accused that it has not made an assessment of the accuracy of the allegations, that it will investigate the complaint, and that it will provide the accused with an opportunity to present his or her side of the matter. The District will also advise the accused that he or she should avoid any conduct that could be viewed as retaliatory against the complainant or any witnesses.



The District will consider if interim protective actions are needed and appropriate, depending on the circumstances. In taking interim actions, the District will respect the rights of the individuals involved. The District reserves the right to implement an individualized response for the accused or alleged harasser (student or employee) pursuant to its policies, and, if in its sole judgment, it finds interim actions are warranted. The District will consider factors such as the seriousness of the alleged offense, and/or the potential for serious disruption or danger to other members of its community in determining whether interim action is needed. Interim action may include, but is not limited to, separating the accused from the complainant. The District will provide a copy of all complaints filed in accordance with the Title 5 regulations to the State Chancellor's Office immediately upon receipt.



INVESTIGATION OF THE COMPLAINT

Investigation Steps

The District will fairly and objectively investigate harassment complaints utilizing the following steps: interviewing the complainant(s); interviewing the alleged harasser(s); identifying and interviewing witnesses; identifying evidence brought forth by each party; identifying and interviewing any other witnesses, if needed; reminding all individuals interviewed of the District's no retaliation policy; considering whether any involved person should be removed from the campus pending completion of the investigation; and reviewing where appropriate. The District will reach a written conclusion as to the allegations and any appropriate disciplinary and remedial action and see that all recommended action is carried out in a timely fashion.

Cooperation Encouraged

All students and employees are expected to cooperate with a District investigation into allegations of harassment. Lack of cooperation impedes the ability of the District to investigate thoroughly and respond effectively. However, lack of cooperation by a complainant or witnesses does not relieve the District of its obligation to investigate. The District will conduct an investigation if it discovers that harassment is, or may be occurring, with or without the cooperation of the alleged victim(s) and regardless of whether a complaint is filed.

Timeline for Completion of Investigation Report

The District will undertake its investigation as promptly and swiftly as possible. The District shall complete the investigation and prepare a written report within 90 days of receiving the complaint.

Within 90 days of receiving a complaint filed under Title 5, sections 59300 et seq., the responsible District officer will complete the investigation. The District will also (1) forward a copy of the investigative report to the State Chancellor and (2) forward a copy or summary of the report to the complainant. The District must also provide written notice to both the complainant and the State Chancellor of the following:

- (a) the determination of the chief executive officer or his or her designee as to whether there is probable cause to sustain the charges raised in the complaint;
- (b) description of actions taken, if any, to prevent similar problems from occurring in the future;
- (c) the proposed resolution of the complaint; and
- (d) the complainant's right to appeal to the District governing board and the State Chancellor.

Discipline and Corrective Action

The District prohibits illegal harassment including the acts of students, employees, and non-employees. Prompt and equitable action, including appropriate disciplinary action, will be taken against any student, employee (supervisory or otherwise), or agent of the District, who engages in such conduct. The action will be prompt, effective, and commensurate with the severity of the offense. If discipline is imposed, the nature of the discipline will not be communicated to the complainant. However, the District may disclose information about the sanction imposed on an individual who was found to have engaged in harassment when the sanction directly relates to the complainant; for example, the District may inform the complainant that the harasser must stay away from the complainant.

Disciplinary actions against faculty, staff and students will conform to all relevant statutes, regulations, personnel policies and procedures, including the provisions of any applicable collective bargaining agreement. The District shall also take reasonable steps to protect the complainant from further harassment and to protect the complainant and witnesses from retaliation as a result of communicating the complaint and/or assisting in the investigation. The District will ensure that complainants and witnesses know how to report any subsequent problems, and will further investigate any new complaints of retaliation or harassment. The District shall take reasonable steps to ensure the confidentiality of the investigation and to protect the privacy of all parties to the extent possible without impeding the District's ability to investigate and respond effectively to the complaint. If the District cannot take disciplinary action against the accused individual because the complainant refuses to participate in the investigation, it will use its discretion to pursue other steps, if any are available or appropriate, to limit the effects of the harassment and to prevent recurrence.



Complainants have appeal rights that they may exercise if they are not satisfied with the results of the District's administrative determination. At the time the administrative determination and summary is mailed to the complainant, the responsible District officer or his or her designee shall notify the complainant of his or her appeal rights as follows:

First level of appeal: The complainant has the right to file an appeal to the District's Board of Trustees within 15 days from the date of the administrative determination. The Board of Trustees will review the original complaint, the investigative report, the administrative determination, and the appeal.

The Board of Trustees will issue a final District decision in the matter within 45 days after receiving the appeal. Alternatively, the Board of Trustees may elect to take no action within 45 days, in which case the original decision in the administrative determination will be deemed to be affirmed and shall become the District's final decision in the matter. The District will forward to the complainant and the State Chancellor's Office a copy of the final decision rendered by the Board of Trustees.

Second level of appeal: The complainant has the right to file an appeal with the California Community College Chancellor's Office in any case not involving employment-related harassment within 30 days from the date that the Board of Trustees decision becomes final. The appeal must be accompanied by a copy of the Board of Trustees' decision or evidence showing the date on which the complainant filed an appeal with the governing board, and a statement under penalty of perjury that no response was received from the governing board within 45 days from that date.

Complainants must submit all appeals in writing. Within 150 days of receiving a complaint, the District will forward the following to the State Chancellor:

- A copy of the final District decision rendered by the governing board or a statement indicating the date on which the administrative determination became final as a result of taking no action on the appeal within 45 days.

- A copy of the notice of appeal rights the District sent the complainant.
- Any other information the State Chancellor may require.

EXTENSIONS

If for reasons beyond its control, the District is unable to comply with the 90-day or 150-day deadlines specified above for submission of materials to the complainant and the State Chancellor's Office, the District will file a written request that the State Chancellor grant an extension of the deadline. The request will be submitted no later than 10 days prior to the expiration of the deadlines established by Title 5 in sections 59336 and/or 59340 and will set forth the reasons for the request and the date by which the District expects to be able to submit the required materials. The District will forward a copy of the request for an extension to the complainant, who may file written objections with the State Chancellor within 5 days of receipt. The State Chancellor may grant the request unless delay would be prejudicial to the complainant. If an extension of the 90-day deadline is granted by the State Chancellor the 150-day deadline is automatically extended by an equal amount.

EXTERNAL FORMAL PROCEDURE

The complainant has the right to file a complaint with any of the external agencies that have the jurisdiction of enforcement of the applicable statutes at any time during the District process. A list of external agencies is provided in the "What Help is Available" section of this document.

WHAT ARE THE REMEDIES?

A victim of harassment may be entitled to remedies or damages as a resolution to their complaint. Remedies for losses incurred by

the victim may include, but are not limited to, stopping the unlawful conduct, disciplinary action, administrative relief, and monetary damages. The District, as an organization, may be held liable for acts of sexual harassment and the individual(s) who engage(s) in this form of unlawful behavior may be held personally liable for monetary damages for engaging in such behavior.

WHAT HELP IS AVAILABLE?

To obtain additional information or to file a formal complaint, contact:

STUDENTS

Irvine Valley College:
Vice President of Student Services
5500 Irvine Center Drive
Irvine, CA 92618
(949) 451-5624
ivc.edu

Saddleback College:
Vice President of Student Services
28000 Marguerite Parkway Mission Viejo, CA 92692
(949) 582-4566
saddleback.edu

District Offices:
Vice Chancellor, Human Resources and
Employer/Employee Relations
South Orange County Community College District
28000 Marguerite Parkway
Mission Viejo, CA 92692
(949) 582-4850
soccdd.edu

U.S. Department of Education
Office for Civil Rights • Region 9
Old Federal Building
50 United Nations Plaza, #239
San Francisco, CA 94102
(415) 437-7700 • TDD: (415) 437-7786
ed.gov

EMPLOYEES

South Orange County Community College District
28000 Marguerite Parkway
Mission Viejo, CA 92692
(949) 582-4850
soccdd.edu

California Department of Fair Employment and
Housing(DFEH)
28 Civic Center Plaza
Santa Ana, CA 92701
(714) 558-4159 • TTY: (213) 897-2840
or (800) 884-1684
dfeh.ca.gov

Equal Employment Opportunity Commission
(EEOC) Los Angeles District Office
255 East Temple Street, Fourth Floor
Los Angeles, CA 90012
(213) 894-1000 or (800) 669-4000
TTY: (213) 894-1121 or (800) 669-6820
eeoc.gov

Equal Employment Opportunity Commission
(EEOC) San Diego District Office
401 "B" Street, Suite 510 San Diego, CA 92101
(619) 557-7235 or (800) 669-4000
TTY: (619) 557-4548 or (800) 669-6820
eeoc.gov

Equal Employment Opportunity Commission
(EEOC) National Headquarters
1801 "L" Street, N.W.
Washington, D.C. 20507
(202) 663-4264 • TTY: (202) 663-4494
eeoc.gov

The deadline to file a complaint with the California Department of Fair Employment and Housing ("DFEH") is 365 days, the deadline for the Equal Employment Opportunity Commission ("EEOC") is 300 days, and the deadline for the Office for Civil Rights ("OCR") is 180 days after the occurrence of the alleged sexual harassment, or within 60 days of receipt of a final determination by the District.



Office of Human Resources

(949) 582-4850

socccd.edu

SOUTH ORANGE COUNTY COMMUNITY COLLEGE DISTRICT
BOARD OF TRUSTEES

William O. Jay, Timothy Jemal, David B. Lang, Marcia Milchiker,
Nancy M. Padberg, T.J. Prendergast III, James R. Wright
Gary L. Poertner, Chancellor

An Equal Opportunity Employer