



HARASSMENT POLICY & COMPLAINT PROCEDURE



*SOUTH
ORANGE
COUNTY
COMMUNITY
COLLEGE
DISTRICT*



WHAT IS HARASSMENT?

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



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





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

ed, inappropriate comments regarding an individual's body, physical appearance, attire, athletic prowess, marital status or sexual orientation; welcome flirting or propositions; demands for favors; verbal abuse, threats or intimidation; 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, grabbing, or physical interference with free movement. This may include, but is not limited to, groping, patting, lingering or intimate touches, pinching, pinching, leering, staring, unnecessarily blocking or blocking another person, leering or sexual gestures. It also includes 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 perpetrator's use of drugs or alcohol. An individual may be unable to give consent due to an actual 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, electronic materials, computer graphics or electronic media transmissions.



ctim would perceive the conduct as
sment based on sex. Sexual harassment
its of unwelcome sexual advances, requests
xual favors, and other conduct of a sexual
e when:

mission to the conduct is made a term
rdition of an individual's employment,
emic status, or progress;
mission to, or rejection of, the conduct by
dividual is used as a basis of employment or
emic decisions affecting the individual;
conduct has the purpose or effect of
g a negative impact upon the individual's
or academic performance, or of creating
imidating, hostile or offensive work or
ational environment; or
omission to, or rejection of, the conduct
e individual is used as the basis for any
on affecting the individual regarding
yment benefits, benefits and services,
s, programs, or activities available at or
gh the community college.

efinition encompasses two kinds of
l harassment:

"In pro quo" sexual harassment occurs
a person in a position of authority makes
ational or employment benefits conditional
an individual's willingness to engage in or
ite unwanted sexual conduct.

"Hostile environment" sexual harassment occurs
unwelcome conduct based on a person's
er is sufficiently severe or pervasive so as to
he conditions of an individual's learning or
environment, unreasonably interfere with an
dual's academic or work performance, or
e an intimidating, hostile, or abusive learning
rk environment. The victim must subjectively
sive the environment as hostile, and the
sment must be such that a reasonable
n 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



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

Importance of Communicating that the Conduct
is Welcome
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
ages. The standard for determining whether
the conduct constitutes sexual harassment is whether
a reasonable person of the same gender as the
complainant would perceive the conduct as harassment
based on sex.



Right of Complaint Procedure
"Designated officers" are charged with receiving
complaints, and coordinating their investigation.
Actual investigations of complaints may
be assigned to other staff or outside persons or
organizations under contract with the District
even if 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.

mal resolution does not extend the time
ations for filing a formal complaint. The
mal resolution process is intended to allow
individual who believes he or she has been
ssed to resolve the issue through an informal
ediation process rather than the formal
plaint process. A complainant may wish
lect the informal process when there is a
le misunderstanding or the complainant does
wish to file a formal complaint. Examples of
mal complaint resolutions include clarification
misunderstanding or an apology from the
ndent and his or her assurance that he or she
ease the offending behavior.



complainant declares his or her preference
e informal process, the designated officer
resent the complainant with a document
contains the basics of complainant's
ations of harassment and will include a
' of this pamphlet describing the formal and
nal complaint procedures available to the
plainant. The complainant will date and
he informal complaint document which will
ly indicate that the complainant opted for
formal resolution process.

formal resolution process is not a prerequisite
e formal complaint process and investigation.
complainant properly files a formal
claim, the District must process the complaint
nvestigation within the time required unless
omplainant voluntarily withdraws the
claim as a result of a successful informal
ation. 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.



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.

istrict will return a defective complaint to complainant immediately with a complete explanation of why an investigation could not be conducted under Title 5, section 59300 et seq. Upon filing 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 veracity 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 expedited 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 harassment, and/or the potential for serious disruption 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 in accordance with the Title 5 regulations to the State Chancellor's Office immediately upon receipt.

ADMINISTRATIVE DETERMINATION

90 days of receiving a complaint filed under sections 59300 et seq., the responsible officer will complete the investigation. The District will also (1) forward a copy of the investigative report to the State Chancellor and 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 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;
- a description of actions taken, if any, to prevent such problems from occurring in the future;
- a proposed resolution of the complaint; and
- a complainant's right to appeal to the District governing board and the State Chancellor.

Discipline and Corrective Action

The District prohibits illegal harassment including 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 gravity 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 the 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:

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 affirmed and shall become the District's final decision in the matter. The District will forward a copy of the final decision rendered by the Board of Trustees to the complainant and the State Chancellor's Office.

Second level of appeal: The complainant has the right to file an appeal with the California Community College Chancellor's Office in a case not involving employment-related determination 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 supporting the date on which the complainant filed an appeal with the governing board, and a sworn 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 the 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

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

WHAT HELP IS AVAILABLE?

For additional information or to file a formal complaint, contact:

STUDENTS

Valley College:
President of Student Services
1900 Irvine Center Drive
Costa Mesa, CA 92618
(714) 441-5624
valley.edu

Leback College:
President of Student Services
1000 Marguerite Parkway Mission Viejo, CA 92692
(949) 582-4566
leback.edu

District Offices:
Chancellor, Human Resources and
Employer/Employee Relations
1000 Orange County Community College District
1000 Marguerite Parkway
Mission Viejo, CA 92692
(949) 582-4850
soccdd.edu

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

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SOUTH ORANGE COUNTY COMMUNITY COLLEGE DISTRICT
BOARD OF TRUSTEES

William D. 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