

## **SEXUAL & OTHER UNLAWFUL HARASSMENT (EMPLOYEES)**

---

*Legal Authority: 34 CFR Part 106.45; 1C SBCCC 200.95*

*Approval: February 16, 2021*

*Previous Editions: April 19, 2011; October 20, 2015; January 17, 2017*

---

### **SEXUAL & OTHER UNLAWFUL HARASSMENT**

The Board will not tolerate unlawful harassment of employees including harassment of an individual because of that person's race, color, age, religion, gender, sexual orientation, national origin, disability, veteran status, or other legally protected status. Any employee who engages in any form of unlawful harassment will be disciplined. Discipline may include, but is not limited to, transfer, demotion, suspension, or discharge. The College also forbids retaliation of any type against an employee for reporting any type of unlawful harassment.

Sexual harassment is also prohibited under the Civil Rights Restoration Act of 1987 as applicable, which states in part: "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance." No member of the campus community, guest, or visitor may act to deny, deprive, or limit the opportunities and/or benefits of any member of the college community on the basis of sex.

Reports of misconduct or questions regarding sexual and unlawful harassment, including concerns about noncompliance, should be directed to the College's Executive Director of Human Resources.

### **Prohibited Conduct**

The College has adopted the following definition of Sexual Harassment in order to address the unique environment of an academic community.

Acts of sexual harassment include those committed by any person upon any other person, irrespective of the sex, sexual orientation, and/or gender identity of those involved.

Sexual Harassment, as an umbrella category, includes the actual or attempted offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking, and is defined as conduct on the basis of sex or that is sexual that satisfies one or more of the following:

- *Quid Pro Quo*: A student or an employee of the College conditions the provision of an aid, benefit, or service of the College, on an individual's participation in unwelcome sexual conduct

- Sexual Harassment: unwelcome conduct, as determined by a “reasonable person,” to be so severe and/or pervasive, and objectively offensive, that it effectively denies a person equal access to the College’s or limits opportunities or benefits
- Sexual Assault: Any sexual act directed against another person, without the consent of that person, including instances in which that person is incapable of giving consent
- Hostile Environment: Severe and/or pervasive conduct towards another person that is objectively offensive (i.e., a “reasonable person” would find it to be) and subjectively offensive (i.e., the person who is the object of the conduct finds it to be offensive and unwelcome).
- Dating Violence: Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - a. The length of the relationship
  - b. The type of relationship
  - c. The frequency of interaction between the persons involved in the relationship
- Domestic Violence: Includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of jurisdiction.
- Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others; or suffer substantial emotional distress.

Neither the definitions nor any other provisions in this policy are intended to operate as speech codes, promote content and viewpoint discrimination or suppress minority viewpoints in the academic setting. That an employee’s speech or expression is deemed offensive by others does not by that fact alone mean it constitutes discrimination or harassment.

In applying these definitions, the speech or expression shall be considered in its context and totality consistent with the following standard: the alleged victim subjectively views the conduct as illegal discrimination or harassment and the conduct is objectively severe or pervasive enough that a reasonable person would agree that the conduct is discriminatory or harassing.

The College prohibits any form of sexual or other unlawful harassment involving any of its employees in the employment relationship. Harassment, retaliation, coercion, interference, or intimidation of an employee due to his or her race, color, religion, gender, sexual orientation, age, national origin, disability, or other legally protected status is strictly forbidden, (*Title VII of the Civil Rights Act of 1964*). Occasional compliments of a socially acceptable nature do not constitute harassment absent other compelling factors. Furthermore, this Policy does not limit employees from reasonably and legally

speaking to, discussing, presenting, teaching, assigning, and/or testing upon any material and subject that could be considered controversial.

### **Complaints by Employees**

Employees, without any fear of reprisal, have the responsibility to bring any form of sexual or other unlawful harassment (whether by a co-worker, a student, or someone else encountered during the course of performing their job duties) to the attention of their supervisor or department head, so that an appropriate investigation may be begun into the circumstances of the incident and the alleged harassment. If an employee is uncomfortable with reporting the harassment to his or her supervisor or department head, the employee should go directly to the Executive Director of Human Resources or to any member of the President's Executive Leadership Team. Any person who receives a report of sexual or other unlawful harassment must notify the Executive Director of Human Resources immediately.

The President shall promulgate and implement appropriate procedures that will provide employees with information as well as the means of obtaining assistance and remedy in the event of a report of sexual and/or other unlawful harassment prohibited by this Policy.