

# **Prohibition of Harassment**

## **(Board Policy 3430)**

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 District is committed to providing an academic and work environment that respects the dignity of individuals and groups. The District 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, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation of any person, or military and veteran status, or because he/she is perceived to have one or more of the foregoing characteristics.

The District seeks to foster an environment in which all employees, students, unpaid interns, and volunteers feel free to report incidents of harassment without fear of retaliation or reprisal. Therefore, the District 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 District 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.

Any student, employee, unpaid intern, or volunteer who believe that he or she has been harassed or retaliated against in violation of this policy should immediately report such incidents by following the procedures described in AP 3435. Supervisors are mandated to report all incidents of harassment and retaliation that come to their attention.

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 Superintendent/President shall ensure that the institution undertakes education and training activities 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 Superintendent/President shall establish procedures that define harassment on campus. The Superintendent/President shall further establish procedures for employees, students, unpaid interns, volunteers, 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 District, 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, students, unpaid interns, and volunteers particularly when they are new to the institution. They shall be available for students, employees, unpaid interns, and volunteers 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. Unpaid interns who violate this policy and related procedures may be subject to disciplinary measures up to and including termination from the internship or other unpaid work experience program.

*Reference: Education Code Sections 212.5; 44100; 66250 et seq, (Equity in Higher Education Act); 66281.5; Government Code Sections 12940 and 12950.1; Title 2 Section 10500 et seq.; Title VII of the Civil Rights Act of 1964, 42 U.S.C.A. § 2000e*

*Last date approved: Board of Trustees, October 20, 2016*

## **Prohibition of Harassment**

(Administrative Procedure 3430)

The Feather River Community College District is committed to providing an academic and work environment free of unlawful harassment. This procedure further 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 District.

This procedure and the related policy protects students, employees, unpaid interns, and volunteers 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 bus, or at a class or training program sponsored by the District at another location.

## Definitions

**General Harassment:** Harassment based on race, color, national origin, ancestry, religious creed, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation of any person, military and veteran status or the perception that a person has one or more of these characteristics is illegal and violates District policy. Harassment shall be found where a reasonable person with the same characteristics as the victim of the harassing conduct would be adversely affected to a degree that interferes with his or her ability to participate in or to realize the intended benefits of an institutional activity, employment, or resource.

Gender-based harassment does not necessarily involve conduct that is sexual. Any hostile or offensive conduct based on gender can constitute prohibited harassment if it meets the definition above. 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 that could, depending on the circumstances, meet the definition above, or could contribute to a set of circumstances that meets the definition.

### Forms of Harassment:

**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, 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 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, 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, Electronic, or Written:** The display or circulation of visual, electronic, or written material that degrades an individual or group based on gender, race,

nationality, sexual orientation, 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 or other protected status; or gratuitous comments regarding gender, race, sexual orientation, 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 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. 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:** In addition to the above, sexual harassment consists of unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature when made by someone from, or in, the work or educational setting when:

- submission to the conduct is explicitly or implicitly made a term or condition of an individual's employment, academic status, or progress;
- submission to, or rejection of, the conduct by an 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 an individual's work or educational performance, or of creating an intimidating, hostile or offensive work or educational environment;
- 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 District.

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 sexual conduct or conduct based on a person's gender alters 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 unreasonably interfered with the person's academic work performance or created an intimidating, hostile, or offensive learning or working environment.

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 administrators, faculty, or staff members and students are discouraged. There is an inherent imbalance of power and potential for exploitation in such relationships. This is particularly true of relations between students and faculty. A conflict of interest may arise if the administrator, 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 District 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 District is a proactive and preventive measure to avoid possible charges of harassment and does not constitute discipline against any affected employee.

### **Academic Freedom**

No provision of this Administrative Procedure shall be interpreted to prohibit conduct that is legitimately related to the course content, teaching methods, scholarship, or public commentary of an individual faculty member or the educational, political, artistic, or literary expression of students in classrooms and public forums. Freedom of speech and academic freedom are, however, not limitless and this procedure will not protect speech or expressive conduct that violates federal or California anti-discrimination laws.

References: *Education Code Sections 212.5; 44100; 66281.5; Title 5, Sections 59320 et seq.; Government Code Sections 12940 and 12923; Civil Code Section 51.9; Title IX, Education Amendments of 1972; Title VII of the Civil Rights Act of 1964, 42 U.S.C.A. § 2000e.*

Reference: BP #3430, AP #3435

Last Date of Approval: Cabinet, September 5, 2019