

Procedure IV.4002.G.b, Employee Sexual Harassment and Sexual Misconduct

Associated Policy

Policy IV.4002.G, Employee Harassment and Discrimination

Procedures

Purpose and Scope

This procedure implements the College's policy against employee harassment in which the complaint alleges sexual misconduct such as sexual harassment, sexual assault, dating violence, domestic violence, stalking, and/or other inappropriate conduct of a sexual nature. These terms are defined in Section IX of this Procedure.

Exclusion for complaints that do not allege sex-based conduct: This procedure does not apply to complaints based on discrimination or harassment based on race, creed, color, national origin, citizenship status, age, disability, pregnancy and pregnancy-related conditions, religion, gender/sex, sexual orientation, gender expression or identity, genetic information, marital status, or veteran status; and failure to provide a reasonable workplace accommodation required by law based on disability, religion, pregnancy, pregnancy-related condition, childbirth, or lactation. Complaints with these types of allegations will be processed under Procedure IV.4002.G, Employee Harassment and Discrimination.

When a complaint contains both sexual and non-sexual allegations, the complaints will be consolidated and investigated pursuant to Procedure IV.4002.G.a, Employee Sexual Harassment and Sexual Misconduct.

Exclusion for complaints against students: If an employee's complaint alleges sexual harassment, sexual assault, dating violence, domestic violence, stalking against a student, and/or other inappropriate conduct of a sexual nature, the complaint will be handled under Procedure III.3006.D.a, Allegations of Sexual Misconduct.

Prohibited Conduct: Harassment can occur in different forms, including verbal, nonverbal, physical, visual, symbolic, and/or electronically based. An essential consideration is whether the conduct was unwelcomed or occurred without the consent of the recipient. Examples of prohibited conduct include, but are not limited to, the following:

- A. Engaging in conduct that constitutes sexual harassment, sexual assault, dating violence, domestic violence, stalking, or other inappropriate conduct of a sexual nature as defined in this procedure.
- B. Prohibited conduct includes is but not limited to:
 - 1) Touching or grabbing an intimate part of a person's body without their consent.
 - 2) Touching or grabbing any part of a person's body after that person has indicated that such physical contact is unwelcome.
 - 3) Repeatedly asking a person to socialize on or off-duty when that person has indicated they are not interested.

- 4) Referring to a person by a sexualized or romantic nickname.
- 5) Using unwelcome sexually suggestive or explicit gestures.
- 6) Requesting a sexual favor accompanied by implied or overt promises of preferential treatment regarding an individual's employment opportunities, compensation, assignments, or status.
- 7) Requesting a sexual favor in conjunction with implied or overt threats of retaliation or other adverse consequences if the recipient does not comply.
- 8) Making sexually demeaning or degrading jokes, slurs, or comments about an employee's abilities, appearance, body, clothing, sexual orientation, and/or gender identity.
- 9) Inquiring about a person's sexual activities or preferences and/or discussing one's sexual activities or preferences in the presence of others.
- 10) Displaying or using electronic equipment and devices, including computer networks, cell phones, and copiers, to transmit or display unwelcome sexually suggestive, explicit, and/or demeaning messages, graphics, cartoons, videos, pictures, photographs, or objects that are unrelated to the individual's work or course of study.
- 11) Acts of intimidation, threats of violence, physical assault, and/or physical acts of aggression or damage to another's property when motivated by the individual's sex.

Fraternization and Consensual Relationships

The integrity of the educational mission of the College is demonstrated by the trust, respect, dignity, and equality in faculty, student, and staff relationships. It is fundamental that the professional responsibilities of faculty and staff members be carried out in an atmosphere that does not compromise these principles.

Amorous or sexual relationships between individuals where one has supervisory, decision-making, or other evaluative responsibility for the other may create conflicts of interest, abuse of power, and perceptions of undue advantage. Additionally, there are special risks in any amorous or sexual relationship between individuals in unequal positions of power, i.e., faculty and student, or supervisor and employee. Such relationships are inherently suspect, may undermine the integrity of the supervision and evaluation provided, may impair workplace harmony and productivity, and may lead to conflicts of interest and harassment claims.

Accordingly, as noted below, the following relationships are prohibited or discouraged by the College:

A. Between faculty members and students

1. **Faculty members** are **prohibited** from seeking or engaging in an amorous or sexual relationship with a **student** or student applicant when the individual is enrolled in a course being taught or supervised by the faculty member; enrolled in the same program in which the faculty member serves as an instructor, evaluator, or supervisor; is an applicant seeking to be a student in the faculty member's department; or is being supervised, coached, or advised by the faculty member in connection with a College-related activity (e.g., athletics, clubs, and academic competitions). This prohibition applies regardless of whether the

relationship is consensual. Additionally, if a faculty member has had a past amorous or sexual relationship with a person who subsequently enrolls in the faculty member's department, the faculty member will promptly disclose the prior relationship to their leader so that a plan can be formulated to manage or eliminate any potential conflicts of interest and to mitigate any potential adverse effects on the student. Confidentiality will be maintained to the extent possible.

2. **Faculty members** are strongly discouraged from seeking or engaging in amorous or sexual activity or relationships with **students** currently enrolled at the College. Even consensual relationships may create conflicts of interest or perceptions of unfairness or unfair advantage, and such concerns may exist even if the consensual relationship concludes. If such a relationship exists or develops, faculty members have the professional and ethical responsibility to remove themselves from any decision-making or evaluative activity that may reward or penalize the student involved.

B. Between staff/administrators and students

1. **Staff and administrators** are **prohibited** from seeking or engaging in an amorous or sexual relationship with a **student** under their direct or indirect supervision or a student who works in the same department as the employee. This prohibition applies to employed students over whom one has supervisory authority for job performance or academic work, e.g., Federal Work Study students. In the event the employee has had a past amorous or sexual relationship with a student who subsequently is hired or transferred to a position in the employee's department, the employee will promptly disclose the prior relationship to the employee's supervisor so that a plan can be formulated to manage or eliminate any potential conflicts of interest and to mitigate any potential adverse effects on the student. Confidentiality will be maintained to the extent possible.
2. **Staff and administrators** are strongly discouraged from seeking or engaging in sexual activity or amorous or sexual relationships with **students** currently enrolled at the College. Even consensual relationships may create conflicts of interest or perceptions of unfairness or unfair advantage, and such concerns may exist even if the consensual relationship concludes. If such a relationship exists or develops, staff members have the professional and ethical responsibility to remove themselves from any decisions or evaluative activity that may reward or penalize the student involved.

C. Between employees

1. Employees in a supervisory position will keep their relationships with subordinates on a professional basis and will not engage in amorous or sexual relationships with individuals who report, directly or indirectly, to the supervisor. Given the power imbalance in such relationships, consent by a lower-

level employee is often suspect and may be viewed by others as the product of intimidation, coercion, or special benefits. When an employee has or had a consensual relationship with another employee, the employee will refrain from participating in or influencing any votes or decisions that may reward or penalize the current or former partner.

2. Employees will keep their relationships with co-workers in the workplace on a professional basis and will exercise good judgment in the employment context. The College discourages amorous or sexual relationships among co-workers, as they may lead to complaints of harassment or may present a conflict of interest, risk of abuse of power, or perceptions of unfairness.

Violations of these standards and harassment complaints related to current or previous amorous or sexual relationships may be addressed through this procedure.

Informal Assistance and Dispute Resolution

The College encourages the prompt reporting of complaints so that rapid and constructive action can be taken, when appropriate. Any individual may seek advice or information on matters related to this policy without having to lodge a formal complaint by contacting Human Resources, Employee Relations.

Employees are encouraged to seek informal resolution of their complaints through Employee Relations, their leadership, or their designees; however, an employee need not make a report to the person who is the alleged perpetrator.

Informal resolution may be useful in situations in which the alleged conduct is not severe or pervasive or the facts are largely undisputed. Informal resolution may include actions such as coaching, counseling, or modification of work assignments.

Confidentiality

To the extent permitted by law, the College will maintain the confidentiality of information related to reports and complaints of discrimination, harassment, and sexual misconduct. The College will attempt to balance the need for confidentiality with the College's responsibility to address such allegations. Some information, including the parties' names, may be disclosed to investigators, witnesses in the case, the respondent and respondent's advisor or attorney, College decision-makers, College attorneys, and others with a responsibility to ensure compliance with this procedure.

Mandatory Employee Reporting

- A. **Mandatory employee reporting of incidents involving sexual harassment, sexual assault, dating violence, domestic violence, or stalking is found in the requirements of the [Texas Education Code Section 51.252](#).**

Any employee of the College who, in the course and scope of their employment, observes or receives information regarding the occurrence of an incident that the employee reasonably believes constitutes sexual harassment, sexual assault, dating violence, domestic violence, or stalking and is alleged to have been committed by or against a person who was a student enrolled at or an employee of the College at the time of the incident, must promptly report the incident to the College's Title IX Coordinator unless an express exception applies. The duty to report applies if the student was enrolled at the College at the time of the incident or if the employee was employed by the College at the time of the incident. The employee will report all known information regarding the incident, including, if available, the name of the alleged victim, respondent, location, and nature of the incident via the College's online portal at <https://dynamicforms.ngwebsolutions.com/Submit/Start/ac0f101c-1d1f-4bc9-8b2b-cfacc32fa5e?SSO=N>. The employee will notify the Title IX Coordinator if the alleged victim has requested confidentiality, but such a request never relieves the employee from the responsibility to report known information to the Title IX Coordinator.

B. Limited exceptions to mandatory reporting

1. Employees are not required to self-report incidents in which they are the victim.
2. Employees with a legal duty of confidentiality—such as a licensed professional counselor providing therapeutic services—will report to the Title IX Coordinator only the type of incident reported (e.g., sexual assault or stalking). They are not required to provide names or other identifying details.
3. A campus peace officer who receives information from an alleged victim who chooses to complete a pseudonym form will, in making a report to the Title IX Coordinator, state only the type of incident reported and may not include the victim's name, phone number, address, or other information that may directly or indirectly reveal the victim's identity. Victim pseudonym forms are available on the website of the Crime Victims Services Division of the Texas Attorney's General Office (<https://www.texasattorneygeneral.gov/crime-victims/services-crime-victims/pseudonym-forms-crime-victims>).

C. Mandatory Termination for Failure to Report

When an employee fails to make a mandatory report and the failure has been verified in accordance with the College's corrective action procedures, the College will terminate the employee's employment in accordance with the process stated in Policy IV.4002.B, Termination or Demotion of Contractual Employees and Policy IV.4002.C, Termination or Demotion of Non-Contracted Employees and affiliated procedures.

D. Criminal Sanctions for Failure to Report

Under the Texas Penal Code, failure to make a mandatory report is a Class B or Class A misdemeanor. Class A misdemeanors are punishable up to one year in jail and/or a maximum fine of \$4,000.

Leader Responsibilities

When a leader or supervisor becomes aware of harassment or discrimination allegations or incidents within their area of authority, the leader or supervisor will take prompt and appropriate action reasonably necessary to ensure compliance with this policy. In addition to making any mandatory reports required by law, the leader or supervisor may make appropriate inquiries to evaluate whether further action is warranted, and they may counsel employees about appropriate and inappropriate behavior in the workplace and issue appropriate directives to ensure compliance with this policy.

Complaint and Investigation Procedures

A. Reporting Options

Reporting an allegation does not necessarily result in an investigation. Investigations will occur, in most cases, only if the alleged victim files a written complaint and requests an investigation. There may be occasions when an alleged victim desires supportive services but does not desire an investigation. An alleged victim may seek supportive services with or without filing a written complaint. Supportive services are non-punitive measures such as a different work schedule or a no-contact directive to separate the parties.

An employee may report a complaint to Employee Relations via email, phone, in person, or via an on-line reporting system form link. An employee also may report complaints to the Title IX Coordinator or to the employee's leader or, if the leader is the respondent, to the next level leader. A leader who receives a complaint from an employee will promptly report the matter to Employee Relations and the Title IX Coordinator.

As soon as practicable after receiving a report, Employee Relations will contact the employee ("the complainant") to acknowledge receipt of the complaint and to provide information regarding the College's complaint process, the availability of supportive services, and the employee's right to file a complaint with law enforcement. The complainant may choose to file with the College and not the police or, conversely, to file with the police and not the College.

Any person may make an anonymous report to the Title IX Coordinator via the College's online portal or by sending a written letter via email, U.S. mail, or hand delivery. However, depending on the facts and circumstances of the anonymous report and the incident being reported, the College may be limited in its ability to stop the alleged conduct, collect evidence, or remedy the situation. A report may be characterized as anonymous if the name of the reporting party is unknown or if the names of the alleged victim and/or respondent are unknown.

B. Community Resources and Evidence Preservation

Full-time employees may confidentially discuss an incident of sexual misconduct with the College's EAP (Employee Assistance Program) without concern that the employee's identity will be reported to Employee Relations, the Title IX Coordinator, or campus police. EAP counselors will not report the employee's name or details without the employee's consent. Further, an

individual's counseling, EAP, and medical records are confidential and will not be used by the College in an investigation or adjudication proceeding without the employee's written consent.

Employees also may make a confidential report to a community rape crisis center, clergyperson, or a health care provider of the employee's choice. Community resources are identified on the College's website under Sexual Assault Resources.

Individuals who have experienced sexual assault or violence are encouraged to seek medical care as promptly as possible after the incident. Seeking medical assistance is essential to obtain treatment and medication, if needed, and to preserve and photograph evidence. A Sexual Assault Forensic Exam (SAFE) performed by a Sexual Assault Nurse Examiner (SANE) may be available if the incident occurred within the previous four calendar days. Individuals should avoid washing, showering, or changing clothes, if possible, before a medical exam or treatment. Clothing, if removed, should be placed in a paper bag. Email threads, text message conversations, and other communications and electronic documents should be saved and not altered.

C. Filing a Complaint

While an investigation may begin based on a verbal report, particularly in circumstances involving an immediate risk of harm, a written statement ensures that Employee Relations has an accurate statement of the allegations to be evaluated and thus minimizes the risk of confusion over the issues to be reviewed. If the complainant has not prepared a written complaint, the complainant should do so within five working days unless extenuating circumstances warrant additional time. If the complainant needs a reasonable accommodation to communicate their complaint, the complainant may obtain assistance from Employee Relations.

A written complaint informs the College that the employee requests an investigation. The employee's complaint must contain the complainant's name, signature, contact information, a description of the conduct or event at issue, the name of the alleged perpetrator(s) ("respondent"), date(s) of the alleged incident(s), the names of any witnesses or persons having knowledge of such incident(s), and the resolution sought. The complainant should provide copies of any relevant documents or information when available. A complaint is "signed" when it contains the complainant's physical or digital signature or otherwise indicates that the complainant is the person submitting the complaint.

D. Initial Review of the Complaint

Employee Relations will determine whether the allegations describe sexual harassment, sexual assault, dating violence, domestic violence, stalking, or other inappropriate conduct of a sexual nature. If it is determined that the allegations, even if true, do not implicate the policy, the complaint will be dismissed, and the complainant will be notified. If it is determined that a different procedure applies, Employee Relations will notify the complainant.

As part of the initial review, Employee Relations will evaluate in conjunction with the relevant leader whether interim measures or supportive measures are appropriate. If the relevant leader is the subject of the complaint, then Employee Relations will consult with the next level leader. Interim measures could include, for example, a change in work schedule, a mutual no-contact

directive, or temporary transfer when necessary to prevent disruption, to ensure the integrity of the investigation, or to ensure public or employee safety. Administrative leave of an employee must be approved by the Chancellor, or designee. The terms and conditions, including the employee's pay status, will comply with relevant College policies and procedures.

If the complainant requests that the College not investigate the matter or withdraws the complaint, the College will strive to be respectful of the alleged victim's requests, recognizing the potential impact of an unwanted investigation upon the alleged victim. In such situations, the College also must weigh the rights, interests, and safety of all parties and the larger College community. Employee Relations will determine whether the available information warrants an investigation. The College will consider the seriousness of the alleged conduct; whether the College has received other reports of misconduct involving the same alleged respondent(s); whether there is a risk of harm to others; the complainant's reasons for not proceeding with the complaint, if known; and any other relevant evidence. Employee Relations will notify the complainant if a decision is made to investigate.

Employee Relations may dismiss a complaint if the complainant declines to cooperate in the College's investigation, if the requested remedy has already been implemented or was offered and rejected, or if the employee-respondent is no longer employed by the College.

E. Investigating a Complaint

An Employee Relations investigator will be assigned who is impartial and free of conflicts of interest. In the event of a conflict of interest that would preclude an investigation by Employee Relations, the College will arrange for appointment of another investigator. The investigation will be prompt and thorough. Prompt investigation means that the investigation is completed as expeditiously as possible given the nature and complexity of the allegations, availability of witnesses, and academic calendar. Investigations ordinarily will be initiated within five (5) working days of receipt of a written complaint.

Employee Relations will provide a copy of the complaint and this procedure to the respondent who will receive a reasonable time to prepare a written response before being interviewed. Employee Relations will notify the respondent of the policy against retaliation. A respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made, using a preponderance of the evidence standard.

The parties may bring an advisor/support person to interviews or meetings relating to an investigation or proceedings under this procedure. Investigations typically will consist of an interview with the complainant, the respondent, and other persons whom the investigator determines may have pertinent information related to the complaint. The investigator also will gather and examine relevant documents and electronically stored information as may be appropriate. The investigator will not collect or consider evidence subject to a legally-recognized privilege unless the party who holds the privilege waived the privilege in writing; a party's medical, psychological, and similar treatment records without the party's voluntary, written consent to do so; or evidence about a complainant's prior sexual behavior unless it is offered to prove that someone other than the respondent committed the alleged misconduct or is offered to prove consent.

Barring unusual circumstances (e.g., multiple reporting parties and witnesses or the complaint is filed immediately before winter break), most investigations will be completed within 60 to 90 calendar days.

F. Findings, Corrective Action, and Appeals

The investigator(s) will prepare findings of fact and a conclusion about whether College policy was violated. Findings will be based on a preponderance of the evidence. To establish something by a “preponderance of the evidence” means to show the greater weight of the credible evidence. This standard is satisfied if the fact or conduct is deemed more likely than not to have occurred. Credibility determinations are allowed but may not be based on an individual’s status as a complainant, respondent, or witness and may not rely on sex stereotypes.

The investigator’s written findings and determination will be summarized in a report and provided to the complainant, the respondent, and the designated administrator who will determine whether corrective action, discipline, or other action is warranted. The parties will have five working days to submit written comments to the designated administrator. The designated administrator will review the report, the documentary evidence, and any written comments from the parties. Within 30 calendar days, the designated administrator will issue a determination.

If the proposed action is termination, then the procedures in Policy IV.4002.B, Termination or Demotion of Contractual Employees, will be followed for contract employees, and Policy IV.4002.C, Termination or Demotion of Non-Contracted Employees, will be followed for non-contract employees.

If the proposed action is not termination or nonrenewal and either party disagrees with the decision of the designated administrator, within five (5) working days of receipt of the decision they may seek review by submitting a written appeal to the respective SLT member, or designee. The SLT member, or designee, may request written comments from the complainant and the respondent. The SLT member, or designee, will issue a written determination within 30 calendar days. The determination is final; however, employees may choose to appear before the Board during Public Comment.

When both employees wish to appeal the disposition of a complaint, the proceedings may be consolidated at the discretion of the SLT member, or designee, so long as this consolidation does not prejudice either party.

Additional Conduct Rules and Procedures

A. Retaliation

Employees have a legal right to file charges of sexual misconduct, to seek supportive measures, and to participate in an investigation of such complaints. Retaliation against such employees is strictly forbidden. Retaliation is conduct that a reasonable employee would view as materially adverse and whose purpose or effect is to discourage employees from exercising their rights under this policy or under the law and which would not have occurred but for the employee’s complaint or the employee’s exercise of their statutory rights. Retaliation does not include exercising one’s

First Amendment rights or charging an individual with making a materially false statement in bad faith in the course of an investigation or grievance proceeding.

The protection against retaliation applies to all good-faith complaints, even if the complaint ultimately is not sustained. Employees may file retaliation complaints under Policy IV.4002.F, Employee Concerns and Grievances.

B. False Complaints

Any person who in bad faith knowingly files a false complaint under this procedure or provides materially false information is subject to corrective action up to and including termination from the College. A determination that a respondent is not responsible for allegations of sexual misconduct does not establish the falsity of a report, written complaint, or evidence. Similarly, determining that a respondent is responsible for a policy violation does not imply that a respondent's statements disclaiming responsibility were false.

C. Interference with the Complaint Process

Any person who interferes with an investigation or other complaint proceeding or appeal is subject to corrective action up to and including termination. Actions that constitute interference include, but are not limited to:

- (a) Attempting to coerce, compel, or prevent an individual from providing testimony or evidence.
- (b) Removing, destroying, or altering documentation relevant to a complaint.
- (c) Knowingly providing false or misleading information to an investigator, designated administrator, or appeal officer or encouraging others to do so.

D. Calculating Deadlines under this Procedure

When a deadline is stated in terms of "calendar" days and the deadline falls on a weekend or state or federal holiday, the deadline will be moved to the next day that does not fall on a weekend or a holiday. When a deadline is stated in terms of "working" days, the deadline will be calculated based on the days that the College is open for business (whether in person or virtually). The term "working days" excludes spring break and winter break.

The College may extend these time frames for good cause and with written notice to the parties.

Complaints against District Officials

Charges of sexual harassment or sexual misconduct against Employee Relations investigators, the Vice President of Human Resources, the Vice Chancellor of Human Resources, or the Title IX Coordinator will be filed directly with the Chancellor, or designee. The Chancellor, or designee, will take appropriate action to appoint an impartial, trained investigator to fulfill the investigatory function required under this procedure. The Chancellor, or designee, will serve as the designated administrator who will review and respond to the investigation report. The Chancellor's decision

is final. However, if the proposed discipline is termination and the employee holds a contract, then the employee may request a hearing pursuant to Policy IV.4002.B, Termination or Demotion of Contractual Employees.

Charges of sexual harassment or sexual misconduct against the Chancellor or any Board member will be filed directly with the Board Chair. The Board Chair, or designee, will take appropriate action to appoint an impartial, trained investigator to fulfill the investigatory function required under this procedure. If a complaint is filed against the Chancellor, the Board of Trustees will serve as the designated administrator.

If the charge is against the Board Chair, the complaint will be submitted to the Vice Chair who will take appropriate action to appoint an impartial, trained investigator to fulfill the investigatory function required under this procedure. The remaining Board members will serve as the designated administrator.

Definitions

This section includes a list of terms referenced in this and other procedures associated with Policy IV.4002.G, Employee Harassment and Discrimination.

Consent: Clear, knowing, and voluntary permission by words or action to engage in mutually agreed upon sexual activity. Consent is communicated through mutually understandable words or actions that indicate willingness by all of the involved parties to engage in the same sexual activity, at the same time, and in the same way. A current or previous dating or sexual relationship by itself is not sufficient to establish consent. Additionally, consent can be withdrawn at any time. Ideally, consent is given verbally; however, consent (or lack of consent) also may be expressed through gestures and body language. Consent is not effective if it results from: (a) the use of physical force or restraint; (b) a threat of physical force; (c) acts of intimidation; (d) acts of coercion; (e) incapacitation (including through the voluntary or involuntary ingestion of alcohol or controlled substances); or (f) other evidence that shows that the individual's ability to exercise their own free will was eliminated on the occasion in question. Specific examples of those who cannot give consent include but are not limited to:

1. The individual is under the age of 17 and is not the spouse of the alleged harasser.
2. The individual is unconscious or asleep.
3. The individual has not consented to the sexual act with the alleged harasser and the alleged harasser knows the other person is unaware that the sexual act is occurring.
4. The individual is mentally impaired or has a mental disability.
5. The alleged harasser has misrepresented or concealed their true identity to the individual.

Dating Violence is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the reporting party.

1. The existence of such a relationship will be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of

- relationship, and the frequency of interaction between the persons involved in the relationship.
2. For the purposes of this definition:
 - a) Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
 - b) Dating violence does not include acts covered under the definition of domestic violence.

Domestic Violence refers to felony or misdemeanor crimes of violence committed by a current or former spouse, a current or past intimate partner, a person that the victim shares a child with, or by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Texas. In Texas, a person commits domestic violence if they engage in violence against a family member, household member, or a current or past partner with whom the alleged perpetrator had a continuing relationship of a romantic or intimate nature. The conduct typically involves a pattern of abusive behavior that is used by an intimate partner to gain or maintain power and control over the other intimate partner. Domestic violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person.

“Other Inappropriate Conduct” is conduct of a sexual nature that does not satisfy a legal definition of sexual harassment under state or federal law but that is nonetheless inappropriate and unprofessional in the workplace. The definition includes, but is not limited to:

1. Unwelcome sex-based advances or propositions; unwelcome requests for sexual favors; unwelcome physical contact or touching of a sexual nature; persistent and unwanted sexual attention; voyeurism; unwelcome sexual gestures; public exposure of one’s sexual organs on campus or at an event under the control of the College; displaying obscene materials in a public place on campus; forwarding pornographic or obscene material via email or text to non-consenting recipients; recording or photographing sexual activity or a person’s genital area or breast area or from a vantage point that a reasonable person would view as an invasion of personal privacy; and allowing a third party to view consensual sex without the knowledge of the other participant;
2. Unwelcome comments of a sexual nature that a reasonable person would view as gratuitous, intimidating, offensive, and/or degrading and that adversely impacts an individual’s educational or work environment. The College’s definitions are not intended to restrict constitutionally protected speech.
3. Conduct of a sexual nature that is consensual between two or more parties but that is nonetheless inappropriate in an educational environment, such as engaging in sexual acts in a campus building or displaying sexually oriented objects or materials in the presence of third parties while on campus.

Sexual Assault: An offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's Uniform Crime Reporting program:

1. **Rape** means the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the reporting party.

2. **Fondling** means the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the reporting party, including instances where the reporting party is incapable of giving consent because of their age or because of their temporary or permanent mental incapacity.
3. **Incest** means sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
4. **Statutory Rape** means sexual intercourse with a person who is under the statutory age of consent.

Sexual Harassment: State and federal law provide several definitions of sexual harassment; however, this procedure is not confined to a specific legal definition. This procedure encompasses all sexually harassing conduct whether defined under state or federal law. Moreover, the College may take action, including corrective action, to stop unwelcome sexually harassing conduct before it rises to the level of a violation of the law. The prohibitions in this policy encompass the following:

- i) “Sexual harassment” under this procedure includes, but is not limited to, unwelcome sexual advances, unwelcome requests for sexual favors, and other unwelcome verbal or physical conduct of a sexual nature when:
 1. Submission to such conduct is explicitly or implicitly made a term or condition of employment.
 2. Submission to or rejection of such conduct is used as a basis for employment decisions affecting the individual who has been subjected to the conduct.
 3. Such conduct is severe, pervasive, or persistent, or objectively offensive and has the effect of unreasonably interfering with the individual’s work performance or creating an intimidating, hostile, or offensive work environment.

Sexual harassment is wrongful regardless of the gender or gender identity of the parties.

- (ii) “Sexual harassment” includes conduct that constitutes “sexual assault,” “dating violence,” “domestic violence,” or “stalking” as defined in this procedure and College Procedure III.3006.D.a, Allegations of Sexual Misconduct.
- (iii) “Sexual harassment” includes “Title IX Sexual Harassment,” which is sexual harassment in a college education program or activity in the United States that involves one or more of the following:
 1. Sexual harassment by an employee of the College in which the employee conditions the provision of an aid, benefit, or service of the College on an individual’s participation in unwelcome sexual conduct (“quid pro quo” harassment).
 2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies

an individual equal access to the College’s education program or activity.

3. “Sexual assault,” “dating violence,” “domestic violence,” or “stalking” as defined in College Procedure III.3006.D.a, Allegations of Sexual Misconduct.

Sexual Misconduct: “Sexual Misconduct” is an umbrella term that encompasses sexual harassment, sexual assault, dating violence, domestic violence, and stalking. As used in this policy, the term also encompasses inappropriate conduct of a sexual nature that does not rise to the level of a violation of law but that is inappropriate in a collegiate environment.

Stalking refers to a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others; or suffer substantial emotional distress. For the purposes of this definition:

1. Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
2. Reasonable person means a reasonable person under similar circumstances and with similar identities to the reporting party.
3. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Retaliation: Any adverse action taken against an employee for filing a complaint or supporting another employee’s complaint under a variety of laws.

Date of SLT Approval	February 21, 2024
Effective Date	April 2, 2024
Associated Policy	Policy IV.4002.G, Employee Harassment and Discrimination
Primary Owner of Policy Associated with the Procedure	Vice Chancellor, Human Resources, Organizational and Talent Effectiveness
Secondary Owner of Policy Associated with the Procedure	Vice President, Human Resources