Sierra College
ADMINISTRATIVE PROCEDURE AP 3430

Prohibition of Harassment

Date Adopted: 9/7/2004
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References: 42 United States Code Annotated Section 2000e; Education Code Sections 212.5, 44100; 66281.5; Title 5, Sections 59320 et seq.; Title VII of the Civil Rights Act of 1964; Title IX, Education Amendments of 1972

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

Definitions
General Harassment
Harassment based on race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, or sexual orientation of any person, or military and veteran status 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 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.

• **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 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 sex, 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 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 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.

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.

Examples: Harassment includes, but is not limited to the following misconduct:

- **Verbal**: Inappropriate or offensive remarks, slurs, jokes or innuendoes based on a
person’s protected status, including but not limited to sex. 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 of a sexual nature; or sexist, patronizing or ridiculing
statements that convey derogatory attitudes about a particular gender.

- **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.

- **Visual or Written**: The display or circulation of offensive sexually oriented or
other discriminatory visual or written material. This may include, but is not
limited to, posters, cartoons, drawings, graffiti, reading materials, computer
graphics or electronic media transmissions.
• **Environmental**: An academic or work environment that is permeated with racially or sexually-oriented talk, innuendo, insults or abuse 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. An environment may be hostile if unwelcome sexual behavior or other harassing behavior based on a protected status is directed specifically at an individual or if the individual merely witnesses unlawful harassment in his or her immediate surroundings. 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.

**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. 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**
To the extent the harassment policies and procedures are in conflict with the District’s policy on academic freedom, the harassment policies and procedures shall prevail. If the faculty member wishes to use sexually explicit materials in the classroom as a teaching technique, the faculty member must review that use with an administrator to determine whether or not this violates the sexual harassment policy.

See Board Policy 3430.