
**Allan Hancock Joint Community College District
Board Policy
Chapter 3 – General Institution**

BP 3430 PROHIBITION OF HARASSMENT

The Allan Hancock Joint Community College District (“District”) is committed to providing an academic and work environment that respects the dignity of individuals and groups. All forms of harassment are contrary to the basic standards of conduct between individuals. State and federal law, and this policy prohibits harassment, and the District will not tolerate harassment. The District shall be free of harassment. 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
- Military and veteran status

or because he/she/they is perceived to have one or more of the foregoing characteristics, or because he/she/they associates with persons with those characteristics.

The District seeks to foster an environment in which all employees 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. The District will investigate all allegations of retaliation swiftly and thoroughly. If the District determines that someone has retaliated, 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 individual who believes that he/she/they has been harassed or retaliated against in violation of this policy should immediately report such incidents by following the procedures described in Administration Procedure 3435. The District requires supervisors 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
- Participation in any community college activity

In addition, this policy applies to all terms and conditions of employment, including but not limited to:

- Hiring assignment
- Promotion
- Disciplinary action
- Layoff
- Recall
- Transfer
- Leaves of absence
- Training opportunities
- Compensation

To this end the Superintendent/President or designee shall ensure that the institution undertakes education and training activities to counter harassment and to prevent, minimize or eliminate any hostile environment that impairs access to equal education opportunity or impacts the terms and conditions of employment.

The Superintendent/President or designee shall establish procedures that define harassment on campus. The Superintendent/President or designee 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. State and federal law prohibit retaliatory acts by the District, its employees, and agents.

The District will publish and publicize this policy and related written procedures (including the procedure for making complaints) to administrators, faculty, staff, students, unpaid interns, and volunteers particularly when they are new to the institution. The District will make this policy and related written procedures (including the procedure for making complaints) all administrative offices and will post them on the District's website.

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 measure up to and including termination from the internship or other unpaid work experience program.

References: Education Code Sections 212.5; 66252; 66281.5, and 66262.5;
Government Code 12950.1;
Title VII of the Civil Rights Act of 1964, 42 U.S.C.A. § 2000e.
2 CCR 10500, et seq.
5 CCR 59320, et seq.

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Allan Hancock Joint Community College District
Administrative Procedure
Chapter 3 – General Institution

AP 3430 PROHIBITION OF HARASSMENT

The District is committed to providing an academic and work environment free of unlawful harassment. This procedure defines harassment AP 3435 Discrimination and Harassment Complaints and Investigations and sets forth a procedure for the investigation and resolution of complaints of harassment by or against any students, employees, unpaid interns, or volunteers within the District.

This procedure and the related 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 bus, or at a class or training program sponsored by the District at another location.

For information on the District's prohibition of sex discrimination including sex-based harassment under Title IX, see BP 3433, Prohibition of Sex Discrimination under Title IX, AP 3433 Prohibition of Sex Discrimination under Title IX, and AP 3434 Responding to Sex Discrimination under Title IX. For other forms of harassment, Complainants should use this procedure.

I. Definitions:

A. General Harassment:

1. 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, or 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 their ability to participate in or to realize the intended benefits of an institutional activity, employment, or resource
2. For sexual harassment under Title IX, Complainants must proceed under BP 3433, Prohibition of Sexual Harassment under Title IX, AP 3433, Prohibition of Sexual Harassment under Title IX, and AP 3434, Responding to Harassment

Based on Sex under Title IX. For other forms of sexual harassment or gender-based harassment, Complainants should use this procedure.

3. 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:

- a) 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.

- b) 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.

- c) 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.

- d) Environmental:

- i 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.

- ii 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.
- iii An environment may also be hostile toward anyone who merely witnesses unlawful harassment in their 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.

II. 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:

- A. Submission to the conduct is made a term or condition of an individual's employment, academic status, or progress;
- B. Submission to, or rejection of, the conduct by the individual is used as a basis of employment or academic decisions affecting the individual;
- C. 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
- D. 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:

1. "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.
2. "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. 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.

3. 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.

III. Examples:

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

A. 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.

B. 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.

C. 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.

D. 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 their 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.

E. 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.

Also see BP/AP 3410 titled Nondiscrimination as well as AP 3435 titled Discrimination and Harassment Investigations and BP 4030 Academic Freedom.

References: Education Code Sections 212.5, , 66281.5, and 66281.8;
Title 5, Sections 59320 et seq.;
Title VII of the Civil Rights Act of 1964 (42 U.S. Code Section 2000e)

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