

**Napa Valley Community College District  
Administrative Regulations to Board Policy D1130, Section 4**

**Prohibition of Sexual Harassment  
D1130 AR(4)**

The Napa Valley Community College District is committed to providing an academic and work environment free of unlawful harassment. These administrative regulations define sexual harassment, as well as the forms and types of sexual harassment. The regulations also address consensual relationships, academic freedom, and student-to-student harassment. Board Policy D1130, Administrative Regulations, Section 5: Handling Complaints of Unlawful Discrimination sets forth the procedure for filing a complaint of sexual harassment, along with procedures for investigation and resolution of complaints of harassment by or against any staff or faculty member or student within the District.

**Definitions and Examples of Sexual Harassment**

Sexual harassment: Unlawful discrimination in the form of unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone from or in the workplace or in the educational setting, and includes but is not limited to:

- (1) Making unsolicited written, verbal, physical, and/or visual contacts with sexual overtones.
- (2) Continuing to express sexual interest after being informed that the interest is unwelcome.
- (3) Making reprisals, threats of reprisal, or implied threats of reprisal following a rebuff of harassing behavior. The following are examples of conduct in an academic environment that might be found to be sexual harassment: implying or actually withholding grades earned or deserved; suggesting a poor performance evaluation will be prepared; or suggesting a scholarship recommendation or college application will be denied.
- (4) Engaging in explicit or implicit coercive sexual behavior within the work environment which is used to control, influence, or affect the employee's career, salary, and/or work environment.
- (5) Engaging in explicit or implicit coercive sexual behavior within the educational environment that is used to control, influence, or affect the educational opportunities, grades, and/or learning environment of a student.
- (6) Offering favors or educational or employment benefits, such as grades or promotions, favorable performance evaluations, favorable assignments, favorable duties or shifts, recommendations, reclassifications, etc., in exchange for sexual favors.
- (7) Awarding educational or employment benefits, such as grades or duties or shifts, recommendations, reclassifications, etc., to any student or employee with whom the decision maker has a sexual relationship and denying such benefits to other students or employees.

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.

Sexual harassment can come in many forms, including but not limited to the following conduct:

Verbal: Sexual innuendoes or other suggestive remarks based on the person's gender. This may include, but is not limited to: sexually explicit questions, jokes, or stories; inappropriate or graphic comments regarding an individual's body, physical appearance, attire, sexual prowess, marital status; 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; initiating and/or spreading rumors about a person's sex life; and sexually suggestive or insulting sounds.

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; and sexual gestures. It also includes any physical assault or intimidation directed at an individual due to that person's gender.

Visual or Written: The display or circulation of visual or written material that degrades an individual or group based on gender. This may include, but is not limited to: posters; cartoon; drawings; graffiti; reading materials; suggestive or obscene letters, notes, or invitations; computer graphics; and 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. 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 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.

### **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. The use of sexually explicit materials in the classroom must be related to the curriculum; gratuitous use of sexually explicit materials is a violation of the sexual\_harassment policy.

### **Student-to-Student Harassment**

Student-to-student harassment is a violation of the District's policy on unlawful discrimination and must be reported to the Responsible District Officer. Such complaints will be handled by the Vice President of Student Services as a student conduct and discipline issue.

References: Education Code Sections 212.5, 230, 66281.5  
Title IX, Education Amendments of 1972  
Title 5, Sections 59320 et seq.  
Title VII of the Civil Rights Act of 1964, 42 U.S.