

Policy III.3006.D, Sexual Misconduct

Purpose

San Jacinto College is committed to maintaining a campus environment that is free from discrimination based on sex. In support of that objective, this Policy prohibits sexual harassment, sexual assault, dating violence, domestic violence, and stalking against any student or employee by any person under the control of the College. This Policy also prohibits conduct of a sexual nature that is objectively offensive and inappropriate for a campus environment but that may not satisfy legal definitions of sexual harassment, sexual assault, dating violence, domestic violence, or stalking. Further, this policy prohibits retaliation against any member of the College community who in good faith reports a violation of College policy or who cooperates in an investigation, disciplinary process, or judicial proceeding arising from such a report.

This Policy applies to all College students, administrators, faculty, staff, and third parties within the College's control. This policy applies regardless of the sex, sexual identity, or sexual orientation of the parties. Individuals who violate this Policy and its affiliated procedures are subject to discipline up to and including expulsion for students and termination for employees.

This Policy and its affiliated procedures implement legal requirements found in Title VII of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972 and its implementing regulations; the Clery Act and its implementing regulations; and the Texas Education Code, chapter 51, subchapter E-2.

Policy

General Prohibition: San Jacinto College prohibits all employees, students, and third parties under the College's control from engaging in sexual harassment, sexual assault, dating violence, domestic violence, and stalking ("Sexual Misconduct"). This Policy also prohibits conduct of a sexual nature that is objectively offensive and inappropriate for a campus environment but that may not satisfy legal definitions of sexual harassment, sexual assault, dating violence, domestic violence, or stalking ("Other Inappropriate Conduct"). This Policy applies to conduct that occurs on College-owned or College-leased property or in a College vehicle; in a College program or activity whether on or off campus; in a building owned or controlled by a student organization that is officially recognized by the College; or in other instances in which the College exercised substantial control over the alleged perpetrator and the context in which the conduct occurred. This policy applies to off-campus conduct that adversely affects or jeopardizes a student's equal access to the College's education programs or activities.

Retaliation Prohibited: Retaliation is prohibited against an individual who in good faith reports conduct prohibited by this policy or who cooperates in an investigation, disciplinary process, or judicial proceeding arising from such a report. Retaliation is a decision or action that is materially adverse and is of the type that would dissuade a reasonable person from exercising his or her rights to file a complaint or to participate in an investigation.

Definitions: The definitions of sexual harassment, sexual assault, dating violence, domestic violence, stalking, and other inappropriate conduct are found in the College's Human Resources procedures (Procedure 1-2), student conduct procedures (Procedure VI.6004.D.a), and the Code of Student Conduct.

Coordination of College Efforts to Prevent Sexual Misconduct: The College's Vice Chancellor of Human Resources oversees the College's efforts to prevent and remediate employee conduct prohibited by Title VII. The College's Title IX Coordinators coordinate the College's efforts to prevent and remediate conduct prohibited by Title IX. The names and contact information of these individuals shall be available on the College's website and in appropriate handbooks and the Code of Student Conduct.

Mandatory Reporting by Employees: Any employee who, in the course and scope of their employment, observes or receives information regarding an incident that the employee reasonably believes constitutes sexual harassment, sexual assault, dating violence, or stalking that was committed by or against a San Jacinto College student or employee must promptly report the incident or allegation to one of the College's Title IX Coordinators in accordance with the College's procedures. 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 shall report all known information regarding the incident, including, if available, the name of the alleged victim, respondent, location, and nature of the incident. If the alleged victim has expressed a desire for confidentiality, the employee shall provide this information to the Title IX Coordinator.

Employees who fail to make a mandatory report are subject to termination in accordance with College termination procedures. Additionally, the employee is subject to criminal prosecution as stated in Section 51.255 of the Texas Education Code.

Recognition of Freedom of Speech: Freedom of speech and principles of academic freedom are central to the mission of institutions of higher education. This policy is not intended to restrict constitutionally protected speech.

Reporting Options and Supportive Measures: Any person may report sexual misconduct, retaliation, or other inappropriate conduct prohibited by this policy to the College's Human Resources Department or to any Title IX Coordinator in person or by mail, telephone, electronic email, or online portal. Violations also may be reported to the San Jacinto College Police Department or other law enforcement agency. Individuals may seek the assistance of a Title IX Coordinator in making a report to law enforcement. Additionally, regardless of whether a complaint is filed with the Human Resources Department, a Title IX coordinator, or the police, or whether no complaint is filed at all, students and employees may request campus support services or supportive measures or seek general information about their rights and options. Supportive measures are non-disciplinary measures designed to restore or preserve access to the individual's work environment or education program or activity without unreasonably burdening the other party and may include, for example, modification of a class schedule or work schedule, restrictions on contact between the parties, or withdrawal from a class without penalty.

Reporting an incident or seeking support services or supportive measures will not necessarily initiate an investigation; a formal complaint ordinarily must be filed to initiate an investigation. The College's procedures shall identify confidential reporting opportunities for students and employees that respect an individual's desire for privacy.

Development of Procedures for Filing and Adjudicating Complaints: The College Administration, under the direction of the Chancellor or Chancellor's designee, shall prepare reporting and complaint processes that comply with Title VII, Title IX, and their implementing regulations. Additionally, the Administration shall prepare a complaint process that enables students and employees to redress sexually inappropriate conduct that does not satisfy the legal definitions of sexual harassment, sexual assault, dating violence, domestic violence, and stalking.

All of the College's procedures shall provide for the prompt and thorough investigation of employee complaints and student complaints by personnel who are impartial, neutral, and trained on investigations and applicable laws pertaining to Sexual Misconduct. The applicable procedure may depend upon the nature of the allegations and whether a student or employee is the complainant or respondent. The College's Title IX Coordinators will assist students and employees in understanding their rights and options and will direct them to the applicable policies and procedures. The College's procedures shall provide the following: (1) Equitable treatment of complainants and respondents; (2) A process for filing formal complaints that will initiate a formal investigation and provide written notice to the parties regarding the investigation and their respective rights; (3) An objective evaluation of all relevant evidence by unbiased investigators and decision-makers; (4) A presumption that the respondent is not responsible for the alleged violation until a determination is made after completion of the applicable complaint process; and (5) Other procedures reasonably necessary to facilitate a fair and equitable process.

Parties shall have equal access to the evidence gathered during an investigation and shall receive a copy of the written report of the investigation. The College will provide reasonable written notice to a party whose participation is invited or expected of the date, time, location, and purpose of all meetings, investigative interviews, or other proceedings under this policy.

A reporting party's sexual predisposition or prior sexual behavior shall not be not relevant in any investigation or hearing format under the College's procedures except where questions and evidence about a reporting party's prior sexual behavior are offered to prove that someone other than the respondent committed the alleged conduct charged by the reporting party or if the questions or evidence concern specific incidents of the complainant's prior sexual behavior with the respondent and are offered to prove the complainant's consent of the alleged conduct.

Determination of Responsibility; Hearing Procedures; Discipline or Sanctions: Hearings, when required by Title IX, other law, or College procedure, will be conducted by neutral and impartial decision-makers in accordance with a published protocol. Decision-maker(s) will prepare a written determination containing findings of fact based on a preponderance of the evidence and providing a rationale as to whether the respondent is responsible for each incident of alleged misconduct based on the College's policies, procedures, or codes of conduct. Determinations shall be based on relevant evidence. Students found responsible for a violation of this policy will be subject to sanctions ranging from educational training and counseling to restrictions on activities to suspension, expulsion, or denial of degree. Employees found responsible for a violation of this policy will be subject to discipline ranging from counseling and reprimands to demotion, reassignment, suspension, or termination. Other sanctions may be

appropriate and will be tailored to the fact-finding and circumstances. The College’s procedures will publish the full range of potential sanctions and remedies and shall describe available appeal procedures and the standards applicable to appeals.

Complaints against the College Chancellor: A Formal Complaint against the College Chancellor should be submitted to the Chairperson of the Board of Trustees. This policy and the College’s complaint processes shall apply to the extent practicable; avoidance of any conflict of interest is paramount. The Chairperson shall appoint an external investigator, who may be an attorney, to conduct an investigation that complies with applicable law. Any hearings shall be conducted by the Board of Trustees. Members of the Board of Trustees shall receive any training required by Title IX, Title VII, or other applicable law.

Evidence Preservation: Individuals who have experienced an alleged sexual assault or other Sexual Misconduct are encouraged to go to a hospital for a medical exam or treatment as promptly as possible and to preserve all evidence related to the assault or misconduct. Individuals should not wash, shower, or change clothes prior to a medical exam or treatment. Clothing, if removed, should be placed in a paper bag. Evidence of emails and text messages should be preserved.

Training and Educational Materials: The College Administration shall take action to ensure that the College provides training and educational materials to students and employees as may be required by law and as may be required to ensure compliance with this policy, including providing training to all Title IX coordinators, investigators, decision-makers, and other individuals involved in the processing of reports and complaints under this policy.

The Authority, Applicability, Sanctions, Exclusions, and Interpretation do not differ from Policy II.2000.A, Policy and Procedures Development, Review, Revision, and Rescission.

Associated Procedures

Procedure III.3006.D.a, Allegations of Sexual Misconduct

Date of Board Approval	This policy became effective as of August 4, 2020 under the Chancellor’s authority granted by the Board under Policy II.2000.A, Policy and Procedure Development, Review, Revision, and Rescission. Permanent affirmation of the change followed the standard policy review process of two readings at regularly scheduled meetings of the Board with approval on August 31, 2020.
Effective Date	August 4, 2020
Primary Owner	Deputy Chancellor & President Vice Chancellor, Human Resources, Organizational and Talent Effectiveness
Secondary Owner	Associate Vice Chancellor, Student Services Vice President, Human Resources