
Note: This policy addresses complaints of discrimination, harassment, and retaliation based on race, color, national origin, religion, age, or disability targeting students. For legally referenced material relating to this subject matter, see FA(LEGAL). For discrimination, harassment, and retaliation targeting employees based on race, color, national origin, religion, age, or disability, see DIAB. For complaints of sex discrimination, sexual harassment, sexual assault, dating violence, domestic violence, stalking, and retaliation targeting students and perpetrated by students, employees, or third parties under the control of the College District, see FFDA. For complaints of sex discrimination, sexual harassment, sexual assault, dating violence, domestic violence, stalking, and retaliation targeting employees, see DIAA.

**Statement of
Nondiscrimination**

The College District prohibits discrimination, including harassment, against any student on the basis of an individual's Protected Characteristics including race, color, national origin, disability, religion, age, limited English proficiency or English learner status, veteran status, genetic information, sex (including pregnancy, parental status, sex stereotyping or treating people differently because they do not conform to sex-role expectations, sexual orientation, gender identity or gender expression) or any other basis prohibited by law. Retaliation against anyone involved in the complaint process is a violation of College District policy and is prohibited.

[For complaints regarding discrimination, harassment, or retaliation on the basis of sex, see FFDA.]

**Definition of College
District Officials**

For the purposes of this policy, College District officials are the chief equity officer, the director of human resources, the ADA/Section 504 coordinator, and the College President.

ADA / Section 504
Coordinator

Reports of discrimination, harassment, or retaliation based on disability may be directed to the ADA/Section 504 coordinator. The College District designates the following person to coordinate its efforts to comply with Title II of the Americans with Disabilities Act of 1990, as amended, which incorporates and expands the requirements of Section 504 of the Rehabilitation Act of 1973, as amended:

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<p>Chief Equity Officer Executive Director of Campus Engagement & Belonging</p>	<p>Name: Rosemary Coffman</p> <p>Position: Associate Dean, Testing and Student Life <u>Executive Director, Student Success & Wellbeing</u></p> <p>Address: 511 S. Whiting, Baytown, TX 77520-4703</p> <p>Telephone: (281) 425-6387</p> <p>Reports of discrimination, harassment, or retaliation not based on sex or disability should be directed to the chief equity officer:</p> <p>Name: Victoria Marron <u>Darlyn Jo Greathouse</u></p> <p>Position: Associate VP of Retention and Transition Services and Chief Equity Officer <u>Executive Director of Campus Engagement & Belonging</u></p> <p>Address: 511 S. Whiting, Baytown, TX 77520-4703</p> <p>Telephone: (281) 425-6501</p>
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Definitions

Prohibited Conduct

In this policy, the term “prohibited conduct” includes discrimination, harassment, and retaliation as defined by this policy, even if the behavior does not rise to the level of unlawful conduct.

Complainant

In this policy, the term “complainant” refers to an individual who is alleged to be the victim of conduct prohibited by this policy.

Respondent

In this policy, the term “respondent” refers to an individual who allegedly engaged in conduct prohibited by this policy.

Responsible Employee

For purposes of this policy, a “responsible employee” is an employee:

1. Who has the authority to remedy prohibited conduct.
2. Who has been given the duty of reporting incidents of prohibited conduct.
3. Whom a student reasonably believes has the authority to remedy prohibited conduct or has been given the duty of reporting incidents of prohibited conduct.

The College District designates the following persons as responsible employees: any instructor, any administrator, or any College District official defined below.

Report and Written Report

In this policy, the term “report” (when used as a noun) shall mean a set of information that may be provided verbally or in writing by the complainant or by a third party who received the information from the complainant or by a third party who obtained the information

through direct observation including date(s) of the incident(s), a description of the incident(s), and identities of the individuals involved except that anonymous reports shall not include the identity of the complainant. Reports that are not anonymous shall include the complainant's name, ID number, and contact information (email, phone, mailing address). The term "written report" shall mean a physical or electronic document submitted physically or electronically to the appropriate administrator or through the online report portal containing the set of information in the report.

Protected
Characteristics

In this policy, "protected characteristics" includes race, color, national origin, disability, religion, age, limited English proficiency or English learner status, veteran status, genetic information, or sex (including pregnancy, parental status, sex stereotyping or treating people differently because they do not conform to sex-role expectations or on any other basis prohibited by law, sexual orientation, gender identity, or gender expression).

Discrimination

Discrimination against a student is defined as conduct directed at a student on the basis of an individual's protected characteristics or on any other basis prohibited by law that adversely affects the student.

Disparate
Treatment
Discrimination

Disparate treatment discrimination means any unlawful distinction, preference, or detriment to an individual as compared to others that is based on an individual's protected characteristic(s) and that:

1. Excludes an individual from participation;
2. Denies the individual benefits;
3. Treats the individual differently; or
4. Otherwise adversely affects a term, condition, or benefit of an individual's education, living environment, or participation in a College District program or activity.

Disparate Impact
Discrimination

In the student or educational context, disparate impact discrimination occurs when there is sufficient evidence that facially neutral policies, tests, or practices, although not adopted with the intent to discriminate, nonetheless have an unjustified effect of disproportionately excluding or adversely impacting students on the basis of protected characteristics.

Harassment

Harassment of a student is defined as physical, written, electronic, verbal, nonverbal or other conduct based on an individual's protected characteristics or any other basis prohibited by law that is so severe, persistent, or pervasive that the conduct:

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1. Adversely affects a student's ability to participate in or benefit from the College District's educational program or activity, or creates an intimidating, threatening, hostile, or offensive educational environment;
2. Has the purpose or effect of substantially or unreasonably interfering with the student's academic performance; or
3. Otherwise adversely affects the student's educational opportunities.

Examples

Conduct that may constitute hostile environment harassment based on a protected characteristic includes, but is not limited to:

- Ridicule, abuse, insults, or derogatory comments that are directly or indirectly based on a protected characteristic.
- Offensive remarks about an individual's looks, clothing, hair, or body parts that relate to a protected characteristic.
- Offensive comments about an individual's racial, ethnic, or religious characteristics.
- Disparaging or offensive remarks about an individual's gender, gender identity, gender expression, or sexual orientation, whether or not sexual in nature.
- Disparaging or offensive comments about an individual's religious beliefs or affiliations, or lack of religious beliefs or affiliations.
- Disparaging, intimidating, or offensive references to an individual's disability, record of disability, or perceived disability.
- Disparaging or offensive racial or ethnic remarks, including racial or ethnic slurs, jokes, or epithets.

**Reporting
Procedures**

Student Report

Any student who believes that the student has experienced prohibited conduct or believes that another student has experienced prohibited conduct should immediately report the alleged acts to a responsible employee.

Anonymous Report

An individual may anonymously report prohibited conduct to the College District by contacting the chief equity officer or associate dean of student affairs. Providing personally identifiable information is not required to make a report. Depending on the amount of information available about the incident and/or the individuals involved, the College District's ability to respond to an anonymous report may be limited, to include impairing the College District's ability to investigate and address the prohibited conduct.

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Employee Report	Any College District employee who suspects and any responsible employee who receives notice that a student or group of students has or may have experienced prohibited conduct shall immediately notify the appropriate College District official listed in this policy and shall take any other steps required by this policy.
<i>Exceptions</i>	<p>A person who holds a professional license requiring confidentiality, such as a counselor, or who is supervised by such a person shall not be required to disclose a report of prohibited conduct without the student's consent.</p> <p>A person with a legal duty of confidentiality, such as a counselor or medical provider who holds a professional license and provides therapeutic services for the College District or who is supervised by such a person shall not be required to disclose a report of prohibited conduct without the student's consent.</p> <p>A person who is a nonprofessional counselor or advocate designated in administrative procedures as a confidential source shall not be required to disclose information regarding an incident of prohibited conduct that constitutes personally identifiable information about a student or other information that would indicate the student's identity without the student's consent, unless the person is disclosing information as required for inclusion in the College District's annual security report under the Clery Act. [See GCC]</p>
Alternative Reporting Procedures	<p>A student shall not be required to report prohibited conduct to the person alleged to have committed the conduct. Reports concerning prohibited conduct, including reports against the ADA/Section 504 coordinator or the chief equity officer, may be directed to the College President.</p> <p>A report against the College President may be made directly to the Board. If a report is made directly to the Board, the Board shall appoint an appropriate person to conduct an investigation.</p>
Timely Reporting	Reports of prohibited conduct shall be made as soon as possible after the alleged act or knowledge of the alleged act. A failure to immediately report may impair the College District's ability to investigate and address the prohibited conduct.
Investigation of the Report	The College District may request, but shall not require, a written report. If a report is made orally, the College District official shall reduce the report to written form.
Initial Assessment	Upon receipt or notice of a report, the College District official shall determine whether the allegations, if proven, would constitute prohibited conduct as defined by this policy. If so, the College District official shall immediately authorize or undertake an investigation, except as provided below at Criminal Investigation.

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	<p>If the College District official determines that the allegations, if proven, would not constitute prohibited conduct as defined by this policy but may constitute a violation of other College District rules or regulations, the College District official shall refer the complaint to the chief equity officer.</p>
<p>Interim Action</p>	<p>If appropriate and regardless of whether a criminal or regulatory investigation regarding the alleged conduct is pending, the College District shall promptly take interim action calculated to address prohibited conduct prior to the completion of the College District's investigation.</p>
<p>Investigation of the Report</p>	<p>The College District may request, but shall not require, a written report. If a report is made orally, the College District official shall reduce the report to written form.</p>
<p>Evidentiary Standard</p>	<p>The College District will apply the preponderance of the evidence standard in making a determination of responsibility. This means that the person coordinating the investigation will decide whether it is more likely than not, based upon the information provided, that a person is responsible for the alleged violation(s).</p>
<p>College District Investigation</p>	<p>The investigation may be conducted by the College District official or a designee or by a third party designated by the College District, such as an attorney. The investigator shall have received appropriate training regarding the issues related to the complaint and the relevant College District's policy and procedures.</p> <p>The investigation may consist of personal interviews with the person making the report, the person against whom the report is filed, and others with knowledge of the circumstances surrounding the allegations. The investigation may also include analysis of other information or documents related to the allegations.</p>
<p>Informal Resolution</p>	<p>If a formal complaint is filed, the College District official (CDO) who is coordinating the investigation may offer to the parties a process for informal resolution. If the parties voluntarily agree in writing to participate in informal resolution of the complaint, the CDO coordinator shall determine within a reasonably prompt timeframe if informal resolution may be appropriate for the complaint. If the CDO coordinator determines that informal resolution may be appropriate, then the CDO coordinator or designee may facilitate that resolution within a reasonably prompt timeframe. If the CDO coordinator does not determine informal resolution to be appropriate, then the complaint will be subject to the formal resolution process.</p>
<p>Criminal Investigation</p>	<p>If a law enforcement or regulatory agency notifies the College District that a criminal or regulatory investigation has been initiated, the College District shall confer with the agency to determine if the</p>

	<p>College District's investigation would impede the criminal or regulatory investigation. The College District shall proceed with its investigation only to the extent that it does not impede the ongoing criminal or regulatory investigation. After the law enforcement or regulatory agency has completed gathering its evidence, the College District shall promptly resume its investigation.</p>
Concluding the Investigation	<p>Absent extenuating circumstances, such as a request by a law enforcement or regulatory agency for the College District to delay its investigation, the investigation should be completed within 60 working days from the date of the report; however, the investigator shall take additional time if necessary to complete a thorough investigation.</p> <p>The investigator shall prepare a written report of the investigation. The report shall be filed with the College District official overseeing the investigation.</p>
Notification of the Outcome	<p>The College District shall provide written notice of the outcome, within the extent permitted by the Family Educational Rights and Privacy Act (FERPA) or other law, to the complainant and the respondent.</p>
College District Action	<p>If the results of an investigation indicate that prohibited conduct occurred, the College District shall promptly respond by taking appropriate disciplinary or corrective action reasonably calculated to address the conduct, in accordance with College District policy and procedures [see FM and FMA].</p>
Prohibited Conduct	
<i>Disciplinary Action</i>	<p>Disciplinary action for students may include reprimand, restitution, probation, suspension, expulsion, or other measures in accordance with College District policy and procedures [see FM and FMA]. Disciplinary action for employees may include a warning, suspension, or termination in accordance with Board policy [see DMAA and DMAB].</p>
<i>Corrective Action</i>	<p>Examples of corrective action may include a training program for those involved in the complaint, a comprehensive education program for the College District community, counseling for the victim and the student who engaged in prohibited conduct, follow-up inquiries to determine if any new incidents or any instances of retaliation have occurred, involving students in efforts to identify problems and improve the College District climate, increasing staff monitoring of areas where prohibited conduct has occurred, and reaffirming the College District's policy against discrimination and harassment.</p>
Improper Conduct	<p>If the investigation reveals improper conduct that did not rise to the level of prohibited conduct, the chief equity officer will determine</p>

the appropriate action to take in accordance with College District policy and procedures or other corrective action reasonably calculated to address the conduct.

Confidentiality

To the greatest extent possible, the College District shall respect the privacy of the complainant, persons against whom a report is filed, and witnesses. Limited disclosures may be necessary in order to conduct a thorough investigation and comply with applicable law.

Appeal

A party who is dissatisfied with the outcome of the investigation may appeal through the applicable grievance policy beginning at the appropriate level. [See DGBA(LOCAL) for employees, FLD(LOCAL) for students, and GB(LOCAL) for community members] A party shall be informed of his or her right to file a complaint with the U.S. Department of Education Office for Civil Rights.

Complaints Filed with OCR

Retaliation

The College District prohibits retaliation against any person for the purpose of interfering with a right or privilege under this policy or with any right or privilege secured by law; the complainant; or a person who, in good faith, makes a report or complaint, serves as a witness, or otherwise participates in an investigation or proceeding under this policy.

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. Retaliation does not include:

1. Exercising First Amendment rights.
2. Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding.

Students who believe that they have been subjected to retaliation may file a complaint in accordance with this policy. Employees who allege to have experienced retaliation may file a complaint under DIAB.

Examples

Examples of retaliation may include threats, rumor spreading, ostracism, assault, destruction of property, unjustified punishments, or unwarranted grade reductions. Unlawful retaliation does not include petty slights or annoyances.

False Claims

All College District community members are expected to provide truthful information in any proceeding under this policy. Any person, who in bad faith, knowingly or deliberately makes a false complaint under this policy, or provides materially false or misleading infor-

mation is subject to disciplinary action up to and including dismissal or separation. A determination that a respondent is not responsible for the allegations of prohibited conduct does not establish the falsity of a report, complaint, or evidence. Similarly, a determination that a respondent is responsible for a policy violation does not imply that a respondent's statements disclaiming responsibility were false.

Records Retention

Retention of records shall be in accordance with the College District's records retention procedures. [See CIA]

Access to Policy, Procedures, and Related Materials

Information regarding this policy and any accompanying procedures, as well as relevant educational and resource materials concerning the topics discussed in this policy, shall be distributed annually to College District employees and students in compliance with law and in a manner calculated to provide easy access and wide distribution, such as through electronic distribution and inclusion in the employee and student handbooks and other major College District publications. Information regarding the policy, procedures, and related materials shall also be prominently published on the College District's website, taking into account applicable legal requirements. Copies of the policy and procedures shall be readily available at the College District's administrative offices and shall be distributed to a student who makes a report.