

300 DISCRIMINATION AND HARASSMENT COMPLAINTS

(Excludes Sexual Harassment and Sexual Misconduct)

Complaint Procedure 300

300.1 General Statement of Purpose

It is the policy of San Jacinto College to provide an educational, employment and business environment free of discrimination based on race, creed, color, national origin, citizenship status, age, disability, pregnancy, religion, gender, sexual orientation, gender expression or identity, genetic information, marital status, or veteran status. Students, trustees, administrators, faculty, staff, and other agents of the College will not engage in conduct constituting unlawful harassment or discrimination.

The College will promptly investigate all allegations of harassment and discrimination and take appropriate disciplinary action against individuals who engage in prohibited conduct. Disciplinary action may include dismissal of employees, expulsion of students, and removal of visitors. The policy against discrimination applies to all College programs and activities regardless of location, including:

- Admission to programs of study
- Access to enrollment in courses
- Career placement services
- Counseling and guidance materials, tests, and practices
- Technical education
- Physical education
- Competitive athletics
- Graduation requirements
- Student rules, regulations, and benefits
- Treatment as a married and/or pregnant student
- Housing
- Financial assistance
- Health services
- School-sponsored extracurricular activities
- Other aid, benefits, or services

These rules apply to harassment or discrimination that occurs in any program or activity under the substantial control of the College, whether the activity or program is on campus or off campus. Additionally, these rules apply when off-campus harassment or discrimination causes continuing effects on campus.

All administrators, faculty, and staff are encouraged to promptly report incidents of discrimination, harassment, and violence as stated in this procedure. Additionally, the College has designated certain College employees as responsible officials who have mandatory reporting duties. The following employees have a duty to report alleged instances of unlawful discrimination or harassment that come to their attention:

- Chancellor, the Deputy Chancellor and President, Vice Chancellors, Associate Vice Chancellors, Assistant Vice Chancellors, Vice Presidents, Provosts, and Deans
- Registrar
- Faculty and Department Chairs

- Compliance Officer
- Police Department personnel
- Counselors
- Risk Management personnel
- Human Resources personnel
- Athletics personnel
- Directors and Managers

The College has appointed a Title IX/Discrimination Prevention Team to facilitate the College's compliance with state and federal laws prohibiting discrimination. A list of the team is found in Section 300.5.1 of this procedure.

300.2 Scope of this Procedure

This procedure applies to all harassment or discrimination complaints based on a protected status except those involving sexual harassment, sexual assault, domestic violence, dating violence, or stalking. Complaints involving sexual harassment, sexual assault, domestic violence, dating violence, or stalking are addressed in Complaint Procedure 400.

This procedure does apply to sexual discrimination complaints, such as a complaint alleging denial of admission into a program because of gender. In the event that a sexual discrimination complaint overlaps with a sexual harassment complaint, or in the event it is difficult to determine whether a sexual discrimination complaint encompasses sexual harassment, Procedure 400 will be used.

300.3 What is Discrimination?

Discrimination is the act of treating similarly situated persons differently based on their race, color, national origin, religion, sex, disability, age, veteran or military status, genetic information, or any other basis protected by law.

As it pertains to students, this prohibition applies to all College operations and activities including but not limited to admission, housing, discipline, counseling, scholarship and loan programs, co-curricular experiences, and athletics.

300.4 What is Discriminatory Harassment?

Discriminatory harassment is a violation of Section 3.2.3 of the Code of Student Conduct.

Discriminatory harassment is physical, verbal, or nonverbal conduct directed at a person because of his or her race, color, national origin, sex (gender), religion, disability, age, veteran status, genetic information, or any other protected status and that is so severe, persistent or pervasive that the conduct:

1. Affects a person's ability to participate in or benefit from an 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 an employee's work performance; or
3. Otherwise adversely affects a person's educational or employment opportunities.

Examples of prohibited harassment include, but are not limited to, offensive or derogatory comments, jokes, or slurs because of the individual's protected status or because of the individual's need for an accommodation based on disability or religion; actions that are designed

to humiliate or embarrass; physical aggression or assault; display of graffiti or printed material promoting racial, ethnic, or other negative stereotypes; or other kinds of aggressive conduct such as theft or damage to property when motivated by the individual's protected status.

300.5 Complaint Process

Students may use this procedure to file a complaint against another a student, a College employee, College contractors, or third parties who are visiting the College or participating in a College activity. The student may seek an informal or formal resolution at any time. No student is ever required to make a report to the person who is engaging in discrimination or harassment. A student may seek resolution or general information about this complaint procedure by contacting any member of the Title IX/ Discrimination Prevention Team.

300.5.1 Formal Complaint Process

Although students may file a complaint at any time, the College encourages students to report their concerns as soon as possible after the alleged incident(s) so that prompt action can be taken to investigate and resolve the complaint. A delay in reporting may result in a loss of evidence or witness memory or availability. Students are encouraged to file complaints during the same semester that the alleged incidents occurred or within 30 days of the conclusion of the semester.

Content of complaint: Complaints must be signed and in writing. Students are encouraged to describe all incident(s) or action(s) considered by the reporting party to be harassing, discriminatory, or violent. Reporting parties should provide the following information when available:

- Contact information, including address, telephone, and email;
- Name of person(s) directly responsible for alleged violation(s);
- Date(s) and place(s) of alleged violations;
- Nature of alleged violation(s);
- Detailed description of the specific conduct that is the basis of alleged violation(s);
- Copies of documents, emails, text messages, photos, or other physical evidence pertaining to the alleged violation(s);
- Names of any witnesses to alleged violation(s);
- Action requested to resolve the situation;
- Reporting party's signature and date of filing; and
- Any other relevant information.

The student's failure to provide a written complaint or to provide the information requested above may adversely impact the ability of the College to conduct a complete and thorough investigation and may limit the College's ability to take appropriate corrective action.

Where to file the complaint: Complaints from students alleging harassment or discrimination should be filed with the Compliance and Judicial Affairs Office through the following link: www.sanjac.edu/incident-report (<http://www.sanjac.edu/incident-report/>). Students may also report to any member of the Title IX/Discrimination Prevention Team.

To ensure that all student complaints are properly processed, any College administrator who receives a complaint under this procedure shall promptly notify the Compliance and Judicial Affairs Office in writing.

**Title IX/Discrimination Prevention Team:
Vice Chancellor, Human Resources and Organizational & Talent Development**

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300.5.2 Processing the Complaint

The Compliance and Judicial Affairs Office will evaluate student complaints to determine whether they are covered by this procedure. If the nature of the complaint is governed by Title IX of the Education Amendments of 1972, the Compliance and Judicial Affairs Office shall notify the Title IX Coordinator in accordance with Procedure III.3006.D.a, Allegations of Sexual Misconduct (available at: www.sanjac.edu/procedure-iii3006da-allegations-sexual-misconduct (<http://www.sanjac.edu/procedure-iii3006da-allegations-sexual-misconduct/>)).

A copy of Procedure III.3006.D.a is located in this handbook under Complaint Procedure 400.

When Procedure 300 applies, the College will assign an impartial investigator from the Compliance and Judicial Affairs Office. If the Compliance and Judicial Affairs Office is the respondent, then the College shall appoint an impartial investigator who does not work in that office. The College shall make every effort to avoid depriving any student of his or her education prior to a ruling on the merits. The College may remove a respondent from an education program or activity on an emergency basis only after undertaking an individualized safety and risk analysis, determining that an immediate threat to the health or safety of others justifies removal, and providing the respondent with notice and an opportunity to challenge the removal immediately following the removal.

An investigation will be initiated if the complaint is within the scope of this policy and articulates sufficient specific facts, which if determined to be true, would support a finding that the College's policy was violated. The College may decline to process a complaint under a variety of circumstances, including:

1. the complaint does not describe conduct covered by this procedure;
2. the student declines to cooperate in the College's investigation; or
3. the complaint has been withdrawn or the requested remedy has already been implemented or was offered and rejected.

If the College declines to process a complaint pursuant to this procedure, the College shall send the student a written notification explaining the reason(s).

The name and contact information of the investigator will be provided to the reporting party and the respondent. The respondent shall receive written notice of the allegations and shall be informed of his or her right to submit a written response to the allegations within 10 working days, unless unusual circumstances warrant additional time. The written notice shall inform the respondent that retaliation against the reporting party is prohibited and may result in disciplinary action. In cases in which the respondent is an employee, the complaint will be forwarded to the Employee Relations Department and will be processed according to the applicable procedure relating to complaints against employees; the Compliance and Judicial Affairs Office typically will interview the students involved in the matter, and a detailed summary will be provided to the Employee Relations Department.

300.5.3 Investigating the Complaint

Barring unusual circumstances (e.g., multiple reporting parties, a complaint filed the day before the winter break), the investigation shall be completed as promptly as possible, typically within 60 to 90 days. An investigation shall commence even if a law enforcement agency is conducting a separate criminal investigation against the respondent. However, the College's investigation may be temporarily delayed when requested by police investigators or the District Attorney's Office. If the

College's investigation is temporarily delayed due to a pending criminal investigation, the reporting party and respondent will be notified.

The investigator shall interview the reporting party, the respondent, and other individuals determined by the investigator to possess relevant information. The reporting party and the respondent each will be permitted to provide witness names, documentation, or other tangible evidence to the investigator.

During meetings pertaining to the investigation and complaint process, the reporting party and the respondent may be represented or accompanied by an advisor. Advisors, however, may not actively participate in meetings or interview witnesses.

The investigator shall prepare a written report that summarizes and analyzes the available evidence (including inculpatory and exculpatory evidence) and objectively evaluates the parties and witnesses. The report shall state whether a preponderance of the evidence establishes a violation of the College's policies. The investigator will consider the totality of circumstances, including the context and duration of the conduct and its severity. Facts will be considered on the basis of what is reasonable to persons of ordinary sensitivity.

If the respondent is a student, the findings shall be submitted to the Associate Vice Chancellor of Student Services or designee. If the respondent is an employee or visitor, the findings shall be submitted to the appropriate leader, which ordinarily will be the Provost, Vice President of Human Resources, Associate Vice Chancellor, or other Vice President. If a complaint is directed at an administrator who would otherwise act on the complaint, then the function assigned to that person will be assigned to another person.

The investigator's written report shall be submitted to the Associate Vice Chancellor or designee. The Associate Vice Chancellor will permit the respondent and the reporting party to review the findings report via email. Personally identifiable student information on third parties, if confidential by law, will be redacted. The respondent and the reporting party will each have 10 working days to provide written comments to the Associate Vice Chancellor via email or letter. After receiving the comments from the parties (or if no comments are submitted), the Associate Vice Chancellor will confer with the investigator to discuss the findings and to review the investigation record. The Associate Vice Chancellor shall determine whether additional investigation is needed, whether to dismiss the complaint due to insufficient evidence, or whether to proceed with a disciplinary consequence or other corrective action. The action shall be reasonably calculated to prevent a reoccurrence of the misconduct and/or to ameliorate its impact. The Compliance and Judicial Affairs Office will prepare a final determination letter, which shall be sent to the respondent and the reporting party outlining the decision and any disciplinary or corrective action. The final determination may be redacted to protect student information that is confidential by law under the Family Educational Rights & Privacy Act.

All deadlines in this procedure may be extended by mutual agreement or for good cause.

300.6 Review and Appeals

If the investigation does not result in the assignment of disciplinary consequences against the respondent, the reporting party may submit a written appeal to the Provost or designee. The request for an appeal must be submitted within 10 working days of the final determination. The reporting party may submit a written brief with his or her request for an appeal. The Provost or designee shall provide written notice to

the respondent of the appeal. The respondent will have 10 working days to respond to the appeal and the parties' briefs, if any. The Provost or designee shall review the record and issue a written ruling within 20 working days. A copy of the ruling shall be provided to both parties.

If the respondent is proposed for major discipline (expulsion, a suspension exceeding five days, or revocation or withdrawal of a degree), he or she may request a hearing to contest the charge(s) and the sanction(s) under Section 4.8 of the Code of Student Conduct. If the proposed discipline involves a consequence that is less than expulsion, a suspension exceeding five days, or revocation or withdrawal of a degree, the student may request a hearing under Section 4.9 of the Code of Student Conduct. If the respondent desires to contest the sanction(s) but not the charge(s), then the respondent may submit a written appeal to the Provost or designee. The Provost or designee shall review the record and issue a written response within 20 working days. A copy of the response shall be provided to both parties. The Provost or designee shall notify the reporting party of any sanctions that are imposed that directly relate to the reporting party.

If the respondent is an employee and is assigned a disciplinary consequence, he or she may seek review in accordance with the employment policies of the College.

300.7 Retaliation Prohibited

Every student has the right to file a complaint or to participate in an investigation without being subjected to retaliation. Retaliation is an adverse action taken by an employee or student against an individual who makes a good faith report of discrimination, harassment, or sexual misconduct or who participates in an investigation pertaining to a complaint of discrimination, harassment, or sexual misconduct. For an action or decision to be considered adverse, it must be materially adverse and be 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. Unlawful retaliation does not include petty slights or annoyances. Any employee or student who engages in retaliation may be subject to disciplinary action.

300.8 Office for Civil Rights

Students who have experienced discrimination or harassment based on a protected status may file a complaint with the US Department of Education. (www2.ed.gov/about/offices/list/ocr/docs/howto.html) (<http://www2.ed.gov/about/offices/list/ocr/docs/howto.html>)