

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, pregnancy-related conditions, termination of pregnancy, religion, gender, sexual orientation, gender expression or identity, genetic information, parental or 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 College educational program or activity, whether the activity or program is on campus or off campus. Additionally, these rules apply when off-campus harassment or discrimination denies or limits a person's ability to participate in or benefit from the College's education programs or activities.

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 when they receive information that a reasonable employee would understand may constitute discrimination or harassment in violation of these rules.

- Chancellor, the Deputy Chancellor and President, Vice Chancellors, Associate Vice Chancellors, Assistant Vice Chancellors, Vice Presidents, Provosts, and Deans

- Registrar
- Faculty and Department Chairs
- Student Conduct Investigator
- Police Department peace officers and supervisors
- Counselors (unless the counselor has a legal duty of confidentiality, such as a counselor providing therapy)
- Risk Management administrators
- Human Resources administrators and investigators
- Athletics administrators and coaches
- Directors and Managers

Reports may be made to the Office of Student Rights and Responsibilities or to a member of the Title IX/Discrimination Prevention Team as stated 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.

However, 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.

This procedure also applies to retaliation claims when a student believes that he or she was subjected to retaliation for having reported or opposed unlawful harassment or discrimination or having participated in an investigation of such a report.

Admitted students and applicants may use this complaint procedure to lodge complaints about alleged discrimination or harassment in the College's programs and activities, including the admissions and enrollment process.

300.3 What is Discrimination?

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

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), pregnancy, pregnancy-related condition, termination of pregnancy, parenting or marital status, 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 in an educational program or activity of the College;

2. Has the purpose or effect of substantially or unreasonably interfering with the student's academic 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 engaged in the discrimination, harassment, or retaliation. A student may seek resolution or general information about this complaint procedure by contacting the Office of Student Rights and Responsibilities or 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. If the student has a disability and is unable to prepare or sign a written complaint, the student may contact the Office of Student Rights and Responsibilities or a Title IX team member who will assist the student in submitting a written complaint. Students are encouraged to describe all incident(s) or action(s) they consider to be harassing or discriminatory. 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 the Office of Student Rights and Responsibilities through the following link: www.sanjac.edu/incident-report (<https://www.sanjac.edu/support/personal-support/report-an-incident/>). Students may also report to any member of the Title IX/Discrimination Prevention Team.

To ensure that all student complaints are properly processed, any Title IX team member or College administrator who receives a complaint under this procedure shall promptly notify the the Office of Student Rights and Responsibilities in writing.

Title IX/Discrimination Prevention Team:

Vice Chancellor, Human Resources and Organizational & Talent Development

Sandra Ramirez (employees)—Co-Lead Title IX Coordinator and Equal Opportunity Compliance Officer
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300.5.2 Processing the Complaint

The Office of Student Rights and Responsibilities will evaluate student complaints to determine whether they are covered by this procedure. If the complaint involves sexual misconduct, the Office of Student Rights and Responsibilities shall notify the Title IX Coordinator in accordance with Procedure III.3006.D.a, Allegations of Sexual Misconduct (<https://www.sanjac.edu/about/policies-procedures/III-3006-D-a-Allegations-of-Sexual-Misconduct.pdf#search=Procedure%20III3006Da>). 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 Office of Student Rights and Responsibilities. If the Office of Student Rights and Responsibilities is the respondent, then the College shall appoint an impartial investigator who does not work in that office.

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 respondent is not enrolled or is no longer employed by the College;
3. the reporting party withdraws the complaint or declines to participate in the College's investigation, which prevents the College from being able to determine responsibility; or
4. 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/reporting party a written notification explaining the reason(s).

When this procedure applies, then the respondent shall receive written notice of the allegations and shall be informed of their right to submit a written response to the allegations within 10 working days, unless unusual circumstances warrant additional time or less time. The name and contact information of the investigator will be provided to the reporting party and the respondent. 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 Office of Student Rights and Responsibilities may assist the Employee Relations Department as needed.

The College shall make every effort to avoid depriving any student of their 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.

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 and relevant 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. An advisor may be an attorney. Advisors, however, may not actively participate in meetings or interview witnesses.

The investigator shall prepare a written report with findings of fact based on an objective evaluation of the relevant evidence (including inculpatory and exculpatory evidence). The report shall state whether a preponderance of the evidence establishes discrimination, harassment, or retaliation in 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 administrator.

The respondent and the reporting party will receive a copy of the report. Personally identifiable student information on third parties, if confidential by law, will be redacted. The respondent and the reporting party will each have 10 calendar days to provide written comments regarding the investigator's findings 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 review the investigation record and determine whether additional investigation is needed, whether to dismiss the complaint due to insufficient evidence, or whether to impose a disciplinary consequence or other corrective action. No new evidence shall be considered unless the party has obtained new, material

evidence that was not reasonably available at the time of the initial determination regarding responsibility. The Associate Vice Chancellor or designee may request written clarification from the student who has appealed, the investigator, or the Office of Student Rights and Responsibilities. Any disciplinary action shall be reasonably calculated to prevent a reoccurrence of the misconduct and/or to ameliorate its impact. The Associate Vice Chancellor 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 respondent is proposed for major discipline (expulsion, a suspension exceeding five days, or revocation or withdrawal of a degree), they may request a hearing before a Conduct Appellate Board in accordance with the procedures under the Code of Student Conduct.

If the reporting party is dissatisfied with the decision of the Associate Vice Chancellor, the reporting party may submit a written appeal to the Provost or designee. The request for an appeal must be submitted within 10 calendar days of the final determination. The Provost or designee shall provide written notice to the respondent of the appeal. The respondent will have 10 calendar days to respond to the appeal. 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 an employee and is assigned a disciplinary consequence, they may seek review in accordance with the grievance employment policies of the College.

300.7 Retaliation Prohibited

Retaliation is an adverse action taken by an employee or student against an individual who makes a good faith report of discrimination or harassment or who participates in an investigation under this procedure. 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 their 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>)