SEXUAL HARASSMENT

Southwestern Community College District recognizes that harassment on the basis of sex is a violation of both Federal and State employment discrimination laws as well as District Policy. The District is committed to providing all employees, applicants for employment, students and other persons in a business, service or professional relationship with the District with an environment free from sexual harassment, and will not tolerate such conduct on the part of any District employee or student.

Any employee, applicant for employment, student or any other person in a business, service or professional relationship with the District with a complaint of sexual harassment should implement these complaint procedures as soon as possible. No complainant will suffer reprisals for reporting any incidents of sexual harassment or making any complaints.

Sexual harassment is unacceptable conduct, is unlawful, and will not be tolerated by the Southwestern Community College District. The District will promptly and thoroughly investigate any complaints of sexual harassment, and will take expeditious action to resolve such complaints, in accordance with these policies.

A. Definitions

1. Sexual Harassment - Sexual harassment consists of unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature made by someone from or in the work or college setting.

   a. Sexual harassment may be considered to occur under any of the following conditions:

   (1) Submission to the conduct is explicitly or implicitly made a term or condition of an individual's employment or progress or a student's progress at the college.

   (2) Submission to, or rejection of, the conduct by the individual is used as the basis of employment or academic decisions affecting the individual.

   (3) The conduct has the purpose or effect of having a negative impact upon the individual's work or academic performance, or of creating an intimidating, hostile or offensive work or academic environment.

   (4) Submission to, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs or activities available at or through Southwestern Community College District.

b. Forms of sexual harassment include, but are not limited to:
(1) Deliberate verbal comments, gestures, or physical contacts of a sexual nature or demeaning to one’s gender which are unwelcome and/or interfere with work productivity or academic progress.

(2) Generalized sexist statements and behavior not necessarily designed to elicit sexual cooperation, but to convey insulting, degrading and/or sexist attitudes.

(3) Sexual behavior by any employee which has the effect of controlling, influencing or otherwise affecting the job, salary, project, performance evaluation, opportunity for employment, or career of an employee, or applicant for employment, or affecting the academic performance or opportunity for admission of any student or applying student.

(4) Unwelcome sexual, suggestive or obscene letters, notes or other written/printed material, derogatory comments, slurs and/or jokes.

2. **Complainant** - An individual who brings either a formal or informal complaint of alleged sexual harassment.

3. **Respondent** - A person against whom a claim of sexual harassment has been made.

4. **Informal Complaint** - An oral sexual harassment complaint brought by a complainant or a District employee on behalf of a complainant.

5. **Formal Complaint** - A written complaint of sexual harassment submitted by an employee, applicant for employment, student, former student or student applying for admission a complainant.

6. **Superintendent/President** - Where this policy specifies the performance of functions by the Superintendent/President, the Superintendent/President may designate another administrator to perform such functions.

7. **Workday** - Any day in which the administrative offices of the District are open for business (Monday-Friday by 4:30 p.m.). When action must be undertaken within a designated number of workdays, the action must occur by the close of business of the last workday.

B. **General Provisions**
1. Any questions regarding this policy should be directed to the Affirmative Action Officer.

2. Although this policy anticipates that the Affirmative Action Officer is responsible for investigating all complaints of sexual harassment, nothing in this policy is intended to prohibit the Superintendent/President's appointment of a different District administrator as investigator where appropriate. Where it is determined an administrator other than the Affirmative Action Officer will investigate a sexual harassment complaint, that appointed administrator shall do so in accordance with these policies.

3. All allegations of sexual harassment should be brought to the District's attention at the earliest possible time. Time schedules provided in this policy are to ensure prompt consideration of complaints. Allegations of sexual harassment shall be investigated in accordance with this policy.

4. The District recognizes that confidentiality is important to all parties involved in a sexual harassment investigation. To the extent practical, the confidentiality of the complainant, respondent and witness(es) will be protected. Employee(s) and/or student(s) interviewed in accordance with these policies are directed to assist in maintaining such confidentiality.

5. The District will not tolerate retaliation against any student or employee for initiation, pursuit or assistance with a complaint of sexual harassment. Any individual who retaliates against any District employee and/or student in violation of this policy may be subject to disciplinary action.

6. Any individual who is determined to have falsely initiated, or participated in, a sexual harassment investigation may be subject to disciplinary action.

7. The District shall not undertake any disciplinary action involving any respondent or complainant until a final decision has been rendered, except as herein provided. Any individual subject to potential discipline shall have an opportunity to review all materials and provide a response. If, in the opinion of the Superintendent/President, immediate action is necessary, reasonable efforts to first inform the respondent and allow him/her an opportunity under the circumstances to respond to the allegations will be provided. For the purposes of this policy, placement of an employee on paid administrative leave shall not be considered disciplinary action.

8. The complainant and the respondent may be assisted by a representative of his/her choice at any stage of these proceedings.

9. Nothing contained in this policy is intended to discourage informal resolution of complaints. However, prior to any informal resolution of a sexual harassment
C. Complaint Procedures

Any employee, applicant for employment, student, former student, applying student or any other person in a business, service or professional relationship with the District who believes he/she has been subjected to sexual harassment should immediately inform any supervisor or administrator; the supervisor or administrator shall then have a duty to inform the Affirmative Action Officer. The complainant may also go directly to the Affirmative Action Officer.

Any supervisor, administrator or faculty member who receives information from a complainant, or otherwise learns that sexual harassment has allegedly occurred, shall immediately notify the Affirmative Action Officer. Any other District employee who receives information from a complainant, or otherwise learns that sexual harassment has allegedly occurred, is strongly encouraged to report such information to the Affirmative Action Officer. The Affirmative Action Officer, or designee, will investigate all formal or informal complaints in accordance with the following procedures to determine whether or not corrective action is necessary:

1. The complainant will be immediately informed of any rights under any relevant complaint procedure (including the procedure for filing a Title 5 discrimination complaint and the procedure for filing a complaint with the Federal Office For Civil Rights), policy, or in the case of an employee, the collective bargaining agreement. The complainant will be provided with a copy of this policy.

2. The Affirmative Action Officer, or designee, may first investigate all complaints on an informal level and may attempt to resolve the complaint informally. However, the complainant is not required to participate in an informal resolution.

3. At the very beginning of the process, the complainant must be notified that he/she is not required to participate in an informal resolution and that he/she may proceed to file a complaint directly under Title 5 or with the Federal Office for Civil Rights.

4. If, after an informal investigation, the Affirmative Action Officer or designee is unable to resolve the complaint to the satisfaction of the complainant and the respondent, the complainant shall be notified of his/her right to file a formal complaint.

5. All formal complaints shall be submitted in writing to the Affirmative Action Officer, or designee, within forty-five calendar days one (1) year after the alleged harassment has occurred. Complaints which are over forty-five calendar days old will be pursued at the discretion of the Affirmative Action Officer or the Superintendent/President.
6. All written complaints shall be signed and dated by the complainant, and shall contain at least the name(s) of the individual(s) involved, the date of the event(s) at issue and a detailed description of the action(s) constituting the alleged sexual harassment. Names, addresses and phone numbers of witnesses or potential witnesses should also be included. The Affirmative Action Officer shall immediately notify a complainant if his/her complaint is defective.

7. A copy of all written complaints shall be immediately forwarded to the Legal Affairs Division of the Chancellor's Office.

8. Nothing in these procedures is intended to limit the discretion of the Affirmative Action Officer, or designee, to investigate relevant facts which are not specified in the written complaint. Where it is appropriate, the scope of the investigation may be broadened.

9. All complaints will be reviewed and investigated by the Affirmative Action Officer or designee. The investigation may include interviews with (1) the complainant; (2) the respondent; and, (3) any other person(s) who reasonably may have relevant knowledge concerning the complaint, such as witnesses and victims of similar conduct by the respondent. The Affirmative Action Officer will notify the complainant and the Chancellor's Office that it is commencing its investigation.

10. The Affirmative Action Officer shall review all factual information gathered through the investigation to determine whether the alleged conduct constitutes harassment. Consideration must be given to all factual information, the totality of the circumstances, including the nature of the verbal, physical or visual aspects of the action and the context in which the alleged incident(s) occurred.

11. Where the Affirmative Action Officer determines sexual harassment may have occurred, the Affirmative Action Officer shall present the respondent with a copy of the complaint and this policy and provide the respondent with an opportunity to respond in writing to the allegations. Such response must be received within a reasonable amount of time, as determined by the Affirmative Action Officer, not to exceed 15 workdays.

12. Upon receipt of a response by the respondent, the Affirmative Action Officer will again review all factual information presented and incorporate such information into his/her investigation.

13. Immediately following review and investigation of the complaint, the Affirmative Action Officer will prepare and deliver to the Superintendent/President a written recommendation to resolve the complaint. The recommendation will include at least a description of the nature and extent of the investigation conducted by the District, action taken by the District in the event immediate action was necessary, and a proposed resolution to the complaint.
14. A copy of the proposed resolution will be distributed to the complainant and the respondent. Where the parties agree to the proposed resolution, the resolution shall be implemented and the investigation shall be concluded. Within 90 days of receiving a complaint, the Affirmative Action Officer will forward the following items to the complainant and respondent: a copy of the investigative report, the District’s determination, description of action taken, the proposed resolution of the complaint and notice of the complainant’s right to appeal to the Governing Board.

15. If the complainant or respondent is not satisfied with the proposed resolution, he/she may appeal to the Superintendent/President within 15 workdays of receipt of the proposed resolution. The appeal must be in writing, signed, and shall state each and every reason for the appeal and disagreement with the proposed resolution. The Superintendent/President shall investigate the appeal and within 20 workdays from its receipt, shall render a written decision and indicate the basis and reason(s) for the decision.

15. If the complainant or respondent is not satisfied with the Superintendent/President’s District’s findings, he/she may make a final appeal to the Governing Board within 15 workdays of receipt of the Superintendent/President’s District’s decision. The appeal must be in writing, signed, and must state each and every reason for the appeal and disagreement with the Superintendent/President’s District’s decision. The Governing Board will review the appeal and will, in its sole discretion, determine what, if any, further proceedings should occur. The determination of the Governing Board as to procedures and resolution of the allegations will be the final District decision. The Governing Board shall forward its final decision to the complainant and to the Chancellor’s Office within 45 days and shall notify the complainant of his/her rights to appeal to the Chancellor’s Office. If the Governing Board does not act within 45 days, the decision of the administration is deemed to be final and the complainant has the right to appeal to the Chancellor’s Office.

16. In the event it is determined there is merit to the complaint, the District will take corrective action, including such discipline up to and including suspension and/or immediate termination of employment, or suspension or expulsion from academic programs, as is appropriate, in accordance with applicable law and Governing Board policies and procedures. Severity of the disciplinary action will be based upon the circumstances.

17. Within 150 days of receiving a complaint, the District shall forward to the Chancellor: the complaint, the investigative report, a copy of the notice sent to the complainant, a copy of the final District decision rendered by the Governing Board or a statement indicating the date on which the administrative determination became final and a copy of the notice to the complainant required pursuant to Section 59338 (a).

D. Dissemination
1. All District employees will be provided with a copy of this policy.

2. All new students will be provided information on this Policy in the Student Policy Manual which includes the “Sexual Harassment Policy” and the “Unlawful Discrimination Complaint Policies and Procedures Policy” handed out during Registration. In addition, students may obtain a complete copy of these policies at the Student Activities Office, Building 620, Room 621A.

3. A copy of this policy shall also be located in the Personnel Services Human Resources Office, Library and Transfer Center.