



Santa Fe College

Rules Manual

Title: **Prohibition Against Discrimination and Harassment**

Rule 2.8

General Authority: FS 1001.64

Law Implemented: The Florida Civil Rights Act of 1992, FS Chapter 760; Title IX of the Educational Amendment Act of 1972, as amended; 34 CFR Part 106; Titles IV, VI, and VII of the Civil Rights Act of 1964, as amended; The Violence Against Women Act Reauthorization Act of 2013; Section 504 of the Rehabilitation Act of 1973; The Americans with Disabilities Act of 1990, as amended; The Americans with Disabilities Act Amendments Act of 2008; Age Discrimination in Employment Act 1967; The Age Discrimination Act of 1975; Title II of the Genetic Information Nondiscrimination Act of 2008; Uniformed Services Employment and Reemployment Rights Act, 38 USC 4301-4335; FS Chapter 295; FS 39.201, 110.105, 112.04, 1000.05, 1006.53; Chapters 6A-19 and 55A-7, FAC

Effective Date: September 16, 2020

Purpose: To state and explain the College's policy prohibiting discrimination and harassment, including sexual harassment in conjunction with the Title IX regulations effective August 14, 2020, and to implement educational programs and prevention measures relating to sexual harassment, including sexual violence.

I. Policy Statement

Santa Fe College (SF) is committed to maintaining a work and educational environment where no member of the College community is excluded from participation in, denied the benefits of, or subject to discrimination in any College program or activity based on their race, ethnicity, national origin, color, religion, age, disability, sex, pregnancy status, gender identity, sexual orientation, marital status, genetic information, political opinions or affiliations, and veteran status. This commitment applies to employees, volunteers, students, and, to the extent possible, to third parties, applicants for admission, applicants for employment, and the general public.

SF shall take all complaints seriously and will strive to promptly, equitably and thoroughly investigate all complaints. If, after thorough investigation, it is determined that discrimination or harassment, including sexual harassment, has occurred, the College will undertake elimination, prevention, and remedying measures.

Members of the College community should be aware that every employee, other than those considered confidential by SF, is responsible for making the Equity Officer/Title IX Coordinator aware of any concerns or complaints of discrimination or harassment, including sexual harassment. Sharing this information allows the College to make sure affected individuals receive appropriate support services, track incidents and identify patterns, and protect the College community. An employee's failure to report information or complaints about possible discrimination or harassment, including sexual harassment, may result in disciplinary action. SF has designated the Equity Officer/Title IX Coordinator as the individual responsible for receiving any information that may indicate discrimination or harassment, including sexual harassment. The Equity Officer/Title IX Coordinator, along with the supervisor of the Equity Officer/Title IX Coordinator, are the College officials with authority to institute corrective measures related to sexual harassment under this Rule on behalf of the College.

This policy should not be interpreted to abridge academic freedom, principles of free speech, or SF's values.

II. Definitions and Scope of the Policy

A. Discrimination

Discrimination is conduct that is based upon an individual's race, ethnicity, national origin, color, religion, age, disability, sex, pregnancy status, gender identity, sexual orientation, marital status, genetic information, political opinions or affiliations, and veteran status, that excludes an individual from participation in, denies the individual the benefits of, treats the individual differently in, or otherwise adversely affects a term or condition of an individual's employment, education, or participation in a Santa Fe College program or activity. This includes failing to provide reasonable accommodation, consistent with state and federal law, to persons with disabilities.

B. Harassment

Harassment is a type of discrimination. Although sexual harassment is addressed more specifically below, harassment generally is covered under this policy if:

- 1) it is based upon race, ethnicity, national origin, color, religion, age, disability, sex, pregnancy status, gender identity, sexual orientation, marital status, genetic information, political opinions or affiliations, or veteran status; and
- 2) such conduct is sufficiently severe, persistent, or pervasive that it interferes with or limits a person's ability to participate in or benefit from SF's education or work programs or activities (also called *hostile environment* harassment).

Harassing conduct may take various forms, including verbal, non-verbal, graphic or written statements (including the use of cell phones or the Internet), or other physical conduct that may be threatening, harmful, or humiliating. Whether the conduct creates a hostile environment may depend on a variety of factors, including: the degree to which the conduct affected one or more person's education or employment; the type, frequency, and duration of the conduct; the relationship

between the parties; the number of people involved; and the context in which the conduct occurred. Harassment does not have to include intent to harm, be directed at a specific target, or involve repeated incidents.

College community members are encouraged to not wait to report conduct of concern until harassment becomes sufficiently serious (i.e., severe, pervasive, or persistent) to create a hostile environment. The Equity Officer/Title IX Coordinator and other College officials can take proactive steps to prevent harassment from continuing or escalating and to protect or otherwise assist the person harassed. The Equity Officer/Title IX Coordinator can help identify conduct that might be a warning sign of or constitute hostile environment harassment prohibited by this policy and address any concerns or complaints appropriately.

C. Sexual Harassment

- 1) Pursuant to recent amendments to Title IX of the Education Amendments Act of 1972, a new definition of sexual harassment is identified below. Discrimination or harassment of protected classes such as gender identity and sexual orientation may be handled procedurally in alignment with sexual harassment generally.

SF recognizes that sexual harassment, including sexual violence, can occur regardless of sex, sexual orientation, or gender identity of the parties involved. Sex-based harassment includes sexual harassment, which is more specifically defined below, and non-sexual harassment based on stereotypical notions of what is female/feminine vs. male/masculine or a failure to conform to those gender stereotypes.

- 2) Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:
 - a. An employee of the College conditioning the provision of an aid, benefit, or service of the College on an individual's participation in unwelcome sexual conduct (also called *quid pro quo* harassment);
 - b. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the College's education program or activity, including work programs or activities (also called a *hostile environment*); or
 - c. "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).

Quid pro quo sexual harassment can occur whether a person resists and suffers the threatened harm, or the person submits and avoids the threatened harm. Both situations could constitute discrimination on the basis of sex.

A *hostile environment* can be created by severe, pervasive, and objectively offensive conduct, including by a single severe episode. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment. Whether the conduct creates a hostile environment may depend on a variety of factors, including: the degree to which the conduct affected one or more person's education or employment; the type, frequency, and duration of the conduct; the relationship between the parties; the number of people involved; and the context in which the conduct occurred.

Examples of sexual conduct that may violate this policy:

- Repeated sexual advances, whether or not they involve physical touching
- Commenting about or inappropriately touching an individual's body
- Observing, photographing, videotaping, or making other visual or auditory records of sexual activity or nudity, where there is a reasonable expectation of privacy, without the knowledge and consent of all parties
- Sharing visual or auditory records of sexual activity or nudity without the knowledge and consent of all recorded parties and recipients
- Requests for sexual favors in exchange for actual or promised job or educational benefits
- Lewd or sexually suggestive comments, jokes, innuendoes, or gestures
- Stalking

Sexual harassment under this policy may be categorized as Title IX or non-Title IX sexual harassment as delineated in Section III on Jurisdiction below.

3) Unwelcome Conduct

Conduct is unwelcome if a person:

- a. Did not request or invite it, and
- b. Regarded the unrequested or uninvited conduct as undesirable or offensive.

4) Consent

Sexual consent is the voluntary agreement of the complainant to engage in the sexual activity in question. Conduct short of a voluntary agreement to engage in sexual activity does not constitute consent under this rule. It is important to note that just because a person welcomes some sexual contact does not necessarily mean that person welcomes other sexual contact. Similarly, if a person willingly participates in conduct on one occasion does not necessarily mean that the same conduct is welcome at a later time. If a person is deemed to be so impaired or incapacitated as to be incapable of requesting or inviting the conduct, SF will consider the conduct nonconsensual. A person can be incapable to invite conduct due to the effects of drugs, alcohol, sleep, or unconsciousness.

5) Romantic and Sexual Relationships

Romantic or sexual relationships that might be appropriate in other circumstances are prohibited when they occur between a member of the College community and a person for whom that individual has a professional responsibility (for example, an instructor and a student in their class or an employee and a direct supervisor). Such relationships likely result in an appearance of an unfair advantage and abuse of power accruing from the relationship.

6) Minor Children

Sexual contact between College employees and minor (under 18 years of age) students is strictly prohibited. In accordance with College Rule 2.16 and Florida law, College employees must report known or reasonably suspected sexual abuse of a minor to the Equity Officer/Title IX Coordinator, law enforcement, and the Florida Department of Children and Families (DCF). Additional reporting requirements are set forth in College Rule 2.16.

7) Education and Preventative Measures

The President is directed to implement educational and preventative programming to address preventing, recognizing, and appropriately addressing sexual harassment, including sexual violence such as sexual assault, rape, domestic violence, dating violence, and stalking. The College shall conduct primary prevention and awareness programs for all incoming students and new employees, and ongoing awareness campaigns for students and faculty. Specific topics may include: risk reduction; safe and positive options for bystander intervention; applicable institutional policies and procedures; how and to whom to report concerns; and campus and community counseling, health, mental health, victim advocacy, legal services, and other student and employee services.

D. Access to College programs for individuals with disabilities.

Consistent with state and federal law, reasonable accommodation will be provided to persons with disabilities. Students and employees requesting accommodations should self-identify to the appropriate offices to begin the accommodation process.

The Disabilities Resource Center (DRC) is responsible for receiving, approving, and coordinating services and accommodations for qualified students with disabilities so as to ensure they are provided access to the Santa Fe College programs and activities. The Equity Officer is responsible for receiving, approving, and coordinating services and accommodations for qualified employees with disabilities so as to ensure they are able to have meaningful access and employment at Santa Fe College.

The DRC or Equity Officer, as appropriate, will first engage with the student or employee to evaluate whether the student or employee is a qualified individual with

a disability as defined by federal law. Through an interactive process, reasonable accommodations will be considered as necessary to enable the student or employee to have an equal opportunity to participate in and benefit from services, programs, or activities of the College.

E. Religious Observances

SF will reasonably accommodate the religious observance, practice, and belief of individual students, in regard to admissions, class attendance, and the schedule of examinations and work assignments. SF will likewise accommodate an employee's religious beliefs and practices unless doing so would cause more than a minimal burden on the operations of the College.

III. Jurisdiction

A. Discrimination, Harassment, and Non-Title IX Sexual Harassment

Discrimination, harassment, and non-Title IX sexual harassment will be covered by this rule when it is committed by students, staff, faculty, or third parties and it is:

- 1) On SF property or property controlled by SF; or
- 2) Off SF property, and
 - a. The conduct was in connection with SF or an SF sponsored¹ program or activity; or
 - b. The conduct may have the effect of creating a hostile environment for a member of the SF community

Non-Title IX sexual harassment means conduct that meets the definition of sexual harassment (see Section II.C. above) but does not meet jurisdictional requirements for Title IX sexual harassment (see Section III.B. below). Discrimination, harassment, and non-Title IX sexual harassment are processed under College Procedure 2.8P Part A.

B. Title IX Sexual Harassment

Sexual harassment will be covered by this rule and considered Title IX sexual harassment when:

- 1) It occurs in the United States; and
- 2) The complainant is a current student or employee participating in or attempting to participate in an education program or activity of the College at the time a formal complaint of sexual harassment is filed.

¹ Whether a program is an SF sponsored program or activity will be evaluated on a case by case basis and will consider how much involvement SF has with the program or activity and how much authority over the parties the College would be able to assert.

An education program or activity includes locations, events, or circumstances over which the College exercises substantial control over both the respondent and the context in which the sexual harassment occurred.

Title IX sexual harassment shall be processed under College Procedure 2.8P Part B.

C. Other

Certain conduct reported to the College that occurs outside of the jurisdiction of this policy may be investigated by the Equity Officer/Title IX Coordinator or designee at the request of a Vice President or the President. Otherwise, such information will be forwarded to the appropriate Vice President or Vice President's designee and may be processed as a form of misconduct.

IV. Confidentiality

References made to confidentiality refer to the ability of identified confidential resources to not report crimes and violations to law enforcement or College officials without permission, except for extreme circumstances, such as a health and/or safety emergency or child abuse. References made to privacy mean Santa Fe College offices and employees who cannot guarantee confidentiality but will maintain privacy to the greatest extent possible, and information disclosed will be relayed only as necessary to investigate and/or seek a resolution and to notify the Equity Officer/Title IX Coordinator or designee, who is responsible for tracking patterns and spotting systemic issues. The College will limit the disclosure as much as practicable even if the Equity Officer/Title IX Coordinator determines that the request for confidentiality cannot be honored.

To the extent permissible by College rules and policies and applicable laws and regulations, SF will take all appropriate steps to keep student and employee information private. The Equity Officer/Title IX Coordinator will keep information received as private as possible. Information may be shared with others by the College on a need to know basis in order to implement supportive measures and respond to and investigate possible discrimination or harassment, including sexual harassment. The College cannot guarantee that the respondent, complainant, or other parties will keep information or evidence related to discrimination or harassment, including sexual harassment, confidential. Additional information regarding confidentiality and privacy is set forth in the procedures related to this Rule.

Students can receive confidential counseling at the Counseling Center and employees (excluding student employees) can receive confidential support and referrals from the Employee Assistance Program. For contact information for confidential advocacy, counseling or other support services, please see Section XI below.

V. Supportive Measures

The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures. Supportive measures means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee

or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the College's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College's educational environment, or deter sexual harassment. Supportive measures may be provided even if the incident occurs outside the jurisdiction of this policy and may be provided to both the complainant and respondent. Additional information and specific examples are set forth in the procedures related to this Rule.

The College will maintain as confidential supportive measures provided to a complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the College to provide the supportive measures, in accordance with law.

VI. Emergency Removal

- A. In the event of alleged Title IX sexual harassment, the College, in conjunction with the Behavioral Intervention Team, may remove a respondent from the College's education program or activity on an emergency basis, provided that the College undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Title IX sexual harassment justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal.
- B. In the event of other alleged violations of this rule, the College is not limited to "emergency removal" as defined in Title IX and may take all available actions on an interim basis, including interim suspension for students, administrative leave for employees, and other appropriate measures.

VII. Remedies and Sanctions Authorized

Depending on the nature and severity of the conduct, the College is authorized to impose available remedies for the complainant as well as appropriate sanctions for students, employees, and third parties, including vendors, who violate this Rule. Additional information and specific examples are set forth in the procedures related to this Rule.

VIII. Retaliation

Any individual who makes a claim of discrimination, harassment, or sexual harassment, participates in an investigation, proceeding, or hearing, or otherwise lawfully opposes discrimination, shall be protected from adverse action taken on the basis of that conduct.

Disciplinary action up to and including discharge or expulsion may be taken against any person who participates in retaliatory conduct. Examples of retaliatory conduct include, but are not limited to: unfair grading; unfair evaluation; unfair assignments; having information withheld or made difficult to obtain in a timely manner such as class information, recommendations, or grades; not being informed about important events such as meetings or changes in policies; ridicule or name-calling (public or private); oral or written threats or bribes; or refusal to meet with person even though that person has a right to do so.

IX. Frivolous Complaints and Interference with an Investigation

It is a violation of this policy to fabricate or falsify evidence or to knowingly, maliciously, and in bad faith make a false complaint. In cases where there has been a finding of a bad faith complaint or falsification/fabrication of evidence, the College may undertake appropriate steps to ameliorate the effects of the complaint. All employees and students are expected to cooperate fully during the course of a discrimination, harassment, and/or sexual harassment investigation. It is a violation of this policy for any employee or student to intentionally and in bad faith impede, obstruct, or delay the progress of any such investigation.

X. Requests for Information, To Whom to Report an Incident, and How to File A Complaint

Concerns, questions, and complaints of discrimination and harassment, including sexual harassment, and inquiries regarding non-discrimination policies and procedures should be directed to the College's Equity Officer/Title IX Coordinator.

Procedures for complaints and appeals may be found in the procedures related to this Rule.

Individuals who report incidents of rape, sexual assault, domestic violence, dating violence, and stalking to SF will be provided information about the importance of preserving evidence, options about involvement of law enforcement and campus authorities, relevant policies and procedures, and support resources both within the institution and in the community.

XI. Contact Information and Resources

1) Acting Civil Rights Compliance Officer and Title IX Coordinator

Alejandra Fernandez
Acting Civil Rights Compliance Officer and Title IX Coordinator
3000 NW 83rd Street, R-Annex, Room 113 Gainesville, FL
32606
352-395-7384
equity.officer@sfcollge.edu

2) Disabilities Resource Center – The Disabilities Resource Center serves students who document disabilities that limit academic access, faculty instructing students with disabilities, and other individuals seeking disability information.

Disabilities Resource Center (DRC)
Building S, Room 229
3000 NW 83rd St., Gainesville, FL 32606
Voice/TTY (352) 395-4400; Fax (352) 395-4100
E-mail: drc@sfcollge.edu
Web: www.sfcollge.edu/drc/

3) Confidential Resources

Counseling Center - All Santa Fe College Counseling Center staff members are licensed professionals able to provide confidential counseling, crisis intervention, and advocacy.

Santa Fe College Counseling
Center Building R, Room 227
3000 NW 83rd Street
Gainesville, FL 32606
Phone: 352.395.5508
Web: www.sfcollege.edu/counseling

Employee Assistance Program (student employees not eligible) – 1-800-272-7252

- 4) Santa Fe College Police Department:
For emergencies, call: 352-395-5555 (or dial 911);
For all other police business, call: 352-395-5519

5) Outside Agencies

Whether or not a complaint is filed with Santa Fe College, any person may file a complaint of discrimination with the following agencies or any other state or federal agency having jurisdiction:

Florida Human Rights Commission –

Web: <http://fchr.state.fl.us/>

Florida Department of Children and Families –

Web: <https://www.myflfamilies.com/>
Report abuse or neglect: 1-800-962-2873

U.S. Equal Employment Opportunity Commission –

Web: <https://www.eeoc.gov/employees/charge.cfm>

U.S. Department of Education Office of Civil Rights -

Office for Civil Rights, Atlanta Office
U.S. Department of Education
61 Forsyth St. SW, Suite 19T70
Atlanta, GA 30303-8927
Telephone: 404-974-9406
E-mail: OCR.Atlanta@ed.gov

Rule History

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