

**SAN FRANCISCO COMMUNITY COLLEGE DISTRICT  
ADMINISTRATIVE PROCEDURES MANUAL**

<b>Title:</b> <b>UNLAWFUL DISCRIMINATION</b>	<b>Number:</b> <b>AP 2.30</b>
<b>Legal Authority:</b> <b>Title 5, California Code of Regulations, Sections 59300, et seq.; California Education Code Section 66250, et seq.; California Government Code Section 12900, et seq.; California Labor Code Sections 96(k) – 6403.5; Title IX of the Education Amendments of 1972, 20 U.S.C. Section 1681, et seq., 34 C.F.R. Part 106, et seq.</b>	

**A. Authority:**

The procedures and definitions herein are in conformance with nondiscrimination provisions of Title 5, California Code of Regulations (“Title 5”), section 59300 et seq., Title IX of the Education Amendments of 1972 (“Title IX”), 20 U.S.C. section 1681 et seq., and its implementing regulations, 34 C.F.R. Part 106, as well as other state and federal substantive and procedural requirements. Board Policies 2.31, 2.32 and the procedures herein state that the District has jurisdiction to receive and investigate complaints filed under either Title 5 or Title IX.

**B. Informal Complaint Procedures:**

When a person or someone on behalf of a person subject to unlawful discrimination brings charges of unlawful discrimination or harassment on the basis of a protected category to the attention of the District’s responsible officer (*or to any other employee, who directs such informal complaint to the responsible District officer*) via an informal complaint process, the responsible District officer will treat the complaint confidentially, and:

1. Advise the complainant regarding informal and formal complaint procedure:
2. Assure the complainant that *they* will not be required to confront or work out problems with the person accused of unlawful discrimination;
3. Advise the complainant that *they* may file a non-employment-based complaint with the U.S. Department of Education, Office for Civil Rights (“OCR”) where such a complaint is within that agency’s jurisdiction.
4. Advise the complainant that *they* may file an employment-related complaint with the U.S. Equal Employment Opportunity Commission (“EEOC”) and/or the California Department of Fair Employment and Housing (“DFEH”) where such a complaint is within the jurisdiction of those agencies.
5. Where appropriate, refer a complainant filing a complaint alleging sexual harassment and/or sexual violence to sources of counseling, advocacy and support, both within the District (i.e., Student Health Center, Dean of Student Affairs & Wellness, Counseling Department, etc.) and outside of the District (e.g., San Francisco General Hospital, San Francisco Women Against Rape, Women’s Shelters, etc.)
6. In cases involving sexual assault filed pursuant to Title IX (20 U.S.C. § 1681 et seq., 34 C.F.R. section 106.8), the OCR has advised that mediation is not an appropriate

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informal resolution and as such, generally will not be utilized. However, because the District is responsible for maintaining a safe and discrimination-free educational environment, serious allegations may need to be investigated even if the complaining party considers the matter resolved through informal resolution.

In all cases involving sexual harassment and/or sexual assault filed under either Title 5 or Title IX, whether formal or informal, the District will take immediate action to (a) protect the complainant, (b) eliminate a hostile environment, (c) prevent its recurrence, and (d) address the effects of a hostile environment, and where applicable (e) provide information regarding sources of counseling, advocacy and support.

Efforts at informal resolution will not include an investigation unless the responsible District officer determines that an investigation is warranted by the seriousness of the charges. Selecting informal resolution does not extend the time limitations for filing a formal complaint. Efforts at informal resolution may continue after the filing of a formal written complaint, but after a complaint is filed an investigation is required to be conducted pursuant to Title 5, Section 59334, and will be completed unless the matter is informally resolved and the complainant dismisses the complaint.

The responsible District officer may require the investigation to continue after the complainant dismisses the complaint, if he or she determines that the allegations are serious enough to warrant an investigation. Any efforts at informal resolution after the filing of a written complaint will not exceed the 90-day period for rendering the administrative determination pursuant to Title 5, Section 59336. The complaining party may choose to terminate the informal process and begin the formal process at any time.

A complainant may file a criminal complaint simultaneously with the filing of a Title 5 or Title IX complaint. The District will commence investigation upon the filing of a valid complaint with the District, and will not wait for other criminal investigations or criminal proceedings to begin. Allegations of unlawful discrimination made by parties who have not personally suffered unlawful discrimination, and are not complainants under the description set forth in Title IX, may be conducted via the informal complaint process.

In employment-related cases, a complainant has the option to utilize the District complaint process, or file a complaint with the California Department of Fair Employment and Housing (“DFEH”), or with the U.S. Equal Employment Opportunity Commission (“EEOC”). A copy of that filing will be sent to the *California Community Colleges State Chancellor’s Office (“State Chancellor’s Office”)* requesting a determination of whether a further investigation under Title 5 is required. Unless the State Chancellor’s Office determines that a separate investigation is

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required, the District will discontinue its investigation under Title 5 and the matter will be resolved through the California DFEH, or the U.S. EEOC.

The District will provide for representation where required by law and may allow for representation for the accused and complainant in other circumstances on a case-by-case basis.

**C. Formal Complaint Procedures:**

A formal, written complaint of unlawful discrimination against the District must be filed on the District's Formal Complaint form [http://www.ccsf.edu/Title\\_5-EEO-ADA\\_Compliance](http://www.ccsf.edu/Title_5-EEO-ADA_Compliance) and presented to the responsible District officer, the Title 5/EEO/ADA/Title IX Compliance Officer. The complaint may be presented to another District employee who will present the complaint to the responsible District officer. These approved forms are available from the District on either the Title 5/EEO/ADA Compliance Office webpage, and/or the Title IX Compliance Office webpage.

In Title 5 cases, a complainant also has the option to file a complaint with the State Chancellor's Office. The State Chancellor's form, which is limited to protected categories within the jurisdiction of the Office of the State Chancellor, may be obtained from the State Chancellor's website [http://extranet.cccco.edu/portals/1/legal/resources/discrim\\_cplnt\\_2008\\_16fnt.pdf](http://extranet.cccco.edu/portals/1/legal/resources/discrim_cplnt_2008_16fnt.pdf). The completed form must be filed with the responsible District officer or mailed directly to the State Chancellor's Office of the California Community Colleges.

If a complaint of unlawful discrimination presented in another written format, such as a letter, the District may request that the complainant complete the form. If there is a delay in obtaining a completed form, or the complainant refuses to transfer the information or otherwise complete the form but wishes to pursue the formal complaint process, the District may attach the letter to the form and open a formal investigation. While a complaint filed in an improper form is still procedurally defective under Title 5 or Title IX standards, the merits of the complaint itself may be valid and must be addressed.

Once a complaint is filed with the responsible District officer, it will be treated confidentially to the extent possible. The individual(s) accused of engaging in prohibited discriminatory conduct will be advised of that filing and the general nature of the complaint. The District will also advise the accused that: (1) an assessment of the accuracy of the allegations has not yet been made, (2) the complaint will be investigated, (3) the accused will be provided an opportunity to present his/her side of the matter, and (4) any conduct that could be viewed as retaliatory against the complainant or any witnesses must be avoided.

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For complaints filed pursuant to Title IX of the Education Amendments of 1972, 20 U.S.C. §1681 et seq., (at 34 C.F.R. section 106.8), complainants shall utilize the Formal Complaint form. A person who files a Title 5 or Title IX complaint also has the right to file a criminal complaint. The District will commence the formal complaint procedure upon the filing of a valid complaint, and will not wait for other criminal investigation or criminal proceedings to begin. Allegations of unlawful discrimination made by parties who have not personally suffered unlawful discrimination, and are not complainants under the description set forth Title IX, may be conducted via the informal complaint process.

**D. Threshold Requirements of a Formal Complaint:**

When a formal written complaint is filed it will be reviewed to determine if the complaint meets the following requirements:

1. The complaint must be filed on the District's Formal Complaint Form (which has been prescribed by the State Chancellor's Office) [http://www.ccsf.edu/Title\\_5-EEO-ADA\\_Compliance](http://www.ccsf.edu/Title_5-EEO-ADA_Compliance) or on the State Chancellor's form, and must be filed with the District Title 5/EEO/ADA Compliance Officer/Title IX Coordinator or with the State Chancellor [http://extranet.cccco.edu/portals/1/legal/resources/discrim\\_cplnt\\_2008\\_16fnt.pdf](http://extranet.cccco.edu/portals/1/legal/resources/discrim_cplnt_2008_16fnt.pdf).
2. Where a complaint is not filed on the Formal Complaint form, every effort will be made to have the complaint filed on this form and to obtain complainant's signature. However, where a complainant has indicated that he or she wishes to pursue the formal complaint process, a complaint will not be rejected solely based on the failure to file the complaint on the Formal Complaint form.
3. The complaint must allege unlawful discrimination or harassment based on a protected category as prohibited under Title 5, section 59300, or allege sexual harassment and/or sexual assault under Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq., or allege a violation of District Policy.
4. The complaint must be filed by: (a) one who alleges that he or she has personally suffered unlawful discrimination or harassment based on a protected category, (b) filed by someone on behalf of another who has suffered unlawful discrimination or harassment based on a protected category, or (c) filed by one who has learned of such unlawful discrimination or harassment based on a protected category, in his or her official capacity as a faculty member or administrator.

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5. In any complaint not involving employment, the complaint must be filed within one year of the date of the alleged unlawful discrimination and/or harassment based on a protected category, or within one year of the date on which the complainant knew or should have known of the facts underlying the specific incident or incidents of alleged unlawful discrimination and/or harassment based on a protected category.
6. In any complaint alleging discrimination in employment, the complaint shall be filed within 180 days of the date the alleged unlawful discrimination and/or harassment based on a protected category occurred, except that this period will be extended by no more than 90 days following the expiration of that 180 days if the complainant first obtained knowledge of the facts of the alleged violation after the expiration of 180 days.
7. A complaint filed under Title IX shall follow the timelines for filing as stated in subsections (5) and/or (6) above.

In the event of the filing of either a formal or informal complaint under Title 5 or Title IX, the District will take steps to prevent the recurrence of any unlawful discrimination (including sexual harassment and/or sexual assault), and to take a number of interim measures to remedy the discriminatory effects on the complainant and others, where appropriate. Any interim measures will be determined on a case by case basis.

**E. Defective Complaint:**

If a complaint is found to be defective, it will be immediately returned to the complainant with a complete explanation of why an investigation will not be initiated under Title 5 or under Title IX. The notice will inform the complainant that the complaint does not meet the requirements of law, and shall specify in what requirement the complaint is defective. For complaints filed under Title 5, a copy of the notice to the complainant will also be sent to the State Chancellor's Office.

**F. Notice to State Chancellor:**

A copy of all formal complaints filed in accordance with the Title 5 regulations (unlawful discrimination and/or harassment) will be forwarded to the State Chancellor's Office immediately upon receipt, regardless of whether the complaint is brought by a student or by an employee. Similarly, when the State Chancellor's Office receives a complaint, a copy will be forwarded to the District.

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**G. Confidentiality of the Process:**

The District has an obligation to provide adequate, reliable and impartial investigations of complaints. This includes providing the opportunity for both the complainant and the person(s) accused of wrongdoing to present witnesses and other evidence. Investigative processes will be conducted within a confidential climate. Therefore, the District will not reveal information about such matters except as necessary to fulfill its legal obligations.

**H. Conducting Investigations:**

In order to reach an Administrative Determination following the investigation of a Title 5 or Title IX discrimination complaint, the District shall conduct investigations that will be adequate, reliable, impartial and prompt. The investigation will include an opportunity for both parties to present witnesses and other evidence. All credible evidence presented during the investigation (e.g., witness testimony, documents, etc.) will be considered.

The “preponderance of the evidence” standard (*i.e.*, more likely than not that unlawful discrimination occurred) shall be applied in reaching a conclusion as to whether unlawful discrimination occurred. Once an Administrative Determination is reached, Title 5/Title IX investigators will forward the Administrative Determination to the appropriate office for further handling, if necessary. In the case of Title IX complaints, either the investigative report and/or a summary of the investigative report will be made available to both parties prior to any disciplinary proceeding if such report is considered by the reviewing officer(s). The District will also endeavor to coordinate with any other going District or criminal investigations where appropriate.

**I. Administrative Determination:**

Within 90 days of receiving an unlawful discrimination complaint filed under Title 5, or within 60 90 days for a sexual harassment/sexual assault complaint filed pursuant to Title IX, the responsible District officer will complete the investigation. As to complaints filed under Title 5, the responsible District officer will forward a copy of the investigative report to the State Chancellor, a copy of a summary of the report to the complainant, and written notice setting forth all of the following to both the complainant and the State Chancellor:

1. The determination of the Chancellor or his/her designee as to whether there is probable cause to believe discrimination occurred with respect to each allegation in the complaint;
2. A description of actions taken, if any, to prevent similar problems from occurring in the future;

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3. The proposed resolution of the complaint; and
4. The complainant's right to appeal to the District governing board and/or the State Chancellor, where applicable.
5. In employment cases, upon completion of the appeal to the District governing board, the complainant also has the option to file a complaint with the California DFEH or the U.S. EEOC.

For complaints filed pursuant to Title IX, both parties (complainant and respondent) will be notified as to the outcome of the complaint and of each party's right to appeal the decision to the Chancellor and/or his/her designee.

**J. Appeal:**

At the time the administrative determination and summary are mailed to the complainant (and respondent, under Title IX), the responsible District officer or his/her designee shall notify the complainant of his or her appeal rights as follows:

1. First level of appeal for Title 5 complaints: The complainant has the right to file a written appeal of the District's administrative determination to the District's Board of Trustees within 15 days from the date of the notice pursuant to section 59336. The Board of Trustees/Chancellor or their designee will review the original complaint, the investigative report and the administrative determination and appeal. Written appeals must be addressed as follows: Board of Trustees, c/o Chancellor, San Francisco Community College District, 50 Phelan Avenue, E-200, San Francisco CA 94112.

The District's Board of Trustees/Chancellor or his/her designee(s) will issue a final District decision in the matter within 45 days after receiving the appeal. In the event the District's Board of Trustees takes no action within 45 days, the original decision in the administrative determination shall become the final District decision in the matter. In any complaint not involving employment discrimination, a copy of the final decision rendered by the Board of Trustees/Chancellor or his/her designee(s) will be forwarded to the complainant and to the State Chancellor's Office. In any case, involving employment discrimination, the District shall promptly forward to the complainant and to the Chancellor a copy of the final decision rendered by the Board of Trustees that includes complainant's right to file a complaint with the California DFEH or U.S. EEOC.

2. Second level of appeal for Title 5 complaints: In any case not involving employment discrimination (e.g., a student alleging discrimination in education), the complainant has

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the right to file a written appeal with the State Chancellor’s Office within 30 days from the date the governing board issues a final District decision, or permits the administrative determination to become final by taking no action within 45 days from the date of the notice provided, whichever is later. The appeal must be accompanied by a copy of the decision of the governing board or evidence showing the date on which the complainant filed an appeal with the governing board, and a statement under penalty of perjury that no response was received from the governing board within 45 days from the date of notice.

3. Appeal for Title IX complaints: Either the complainant or respondent may appeal the administrative determination to the Chancellor or his/her designee, *within 15 days of date of the notice. The Chancellor or his/her designee will issue a final decision 45 days from the date after receiving the appeal. In the event the Chancellor or his/her designee takes no action within 45 days, the original decision in the administrative determination shall become the final District decision in the matter. Complainants in Title IX cases also have the option to file a complaint with the U.S. Department of Education, Office for Civil Rights (OCR), (but need to file within a the specified timeline as designated by the OCR.)*

**K. Retaliation:**

It is unlawful for anyone to retaliate against someone who: (1) files an unlawful discrimination or harassment complaint, (2) refers a matter for investigation or complaint, (3) participates in an investigation of a complaint, (4) represents or serves as an advocate for an alleged victim or alleged offender, or (5) otherwise furthers the principles of this unlawful discrimination policy. Any act of retaliation should be reported to the Title 5/EEO/ADA/Title IX Compliance Office. *Employees, students, or other persons acting on behalf of the District who engage in unlawful discrimination and/or retaliation as defined in this policy or by state or federal law may be subject to discipline, up to and including discharge, expulsion, or termination.*

**L. Definitions:**

Definitions applicable to Board Policies and Administrative Procedures 2.30, 2.31, and 2.32 are as follows:

- “Appeal” means a request by a complainant made in writing to the San Francisco Community College District governing board pursuant to Title 5, section 59338, and/or to the State Chancellor’s Office pursuant to Title 5, section 59339, *or to the Chancellor or his/her designee for complaints filed under Title IX of the Education Amendments of*

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1972, to review the administrative determination of the District regarding a complaint of discrimination.

- “Complaint” means a written and signed statement meeting the requirements of Title 5, section 59328 that alleges unlawful discrimination in violation of the nondiscrimination regulations adopted by the Board of Governors of the California Community Colleges, as set forth at Title 5, section 59300 et seq.
- “Consent” means, as defined by California Education Code 67386 (a) (1), “affirmative consent,” which means affirmative, conscious, and voluntary agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that *they have* the affirmative consent of the other or others to engage in the sexual activity. Lack of protest or resistance does not mean consent, nor does silence mean consent. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them should never by itself be assumed to be an indicator of consent.
- “Dating violence” means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of a romantic or intimate relationship will be determined based on the length of the relationship, the type of relationship and the frequency of interaction between the persons involved in the relationship.
- “Days” means calendar days.
- “Disability” means, with respect to an individual:
  1. A physical or mental impairment that substantially limits one or more major life activities of such individual;
  2. A record of such an impairment; or
  3. Being regarded as having such an impairment.
  4. Rules of construction regarding the definition of disability (ADA Amendments Act of 2008):The definition of “disability” shall be construed in accordance with the following:
  - a) The definition of disability shall be construed in favor of broad coverage of individuals to the maximum extent permitted by the Americans with Disabilities Act, as amended.

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- b) The term “substantially limits” shall be interpreted consistently with the findings and purposes of the ADA Amendments Act of 2008.
  - c) An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability.
  - d) An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.
  - e) The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as:
    - 1. medication, medical supplies, equipment, or appliances, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies;
    - 2. use of assistive technology;
    - 3. reasonable accommodations or auxiliary aids or services; or
    - 4. learned behavioral or adaptive neurological modifications.
  - f) The ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity.
- “Discrimination on the basis of sex” means sexual harassment or discrimination on the basis of gender, e.g., sexual harassment, sexual assault, sexual violence and/or sexual misconduct.
  - “District” means the San Francisco Community College District or any District program or activity that is funded directly by the state or receives financial assistance from the state. This includes any organization associated with the District or its college(s) that receives state funding or financial assistance through the District.
  - “Domestic violence” includes felony or misdemeanor crimes of violence committed by:
    - 1. a current or former spouse of the victim;
    - 2. by a person with whom the victim shares a child in common;
    - 3. by a person who is cohabitating with or has cohabitated with the victim as a spouse;
    - 4. by a person similarly situated to a spouse of the victim under California law: or

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5. by any other person against an adult or youth victim who is protected from that person's acts under California law.

- “Gender” means a person’s *gender (assigned sex at birth)*, gender identity and gender-related appearance and behavior whether or not stereotypically associated with the person’s assigned sex at birth. This includes transgender, non-binary and gender non-conforming individuals.
- “*Gender-based harassment*” means *unwelcome conduct based on a person’s actual or perceived gender, including harassing conduct (verbal, nonverbal, physical aggression, intimidation or hostility) based on an individual’s gender expression, gender identity, transgender status, gender transition, or nonconformity with sex stereotypes.*
- “Hostility based on sex or sex-stereotyping” includes conduct such as refusing to use a transgender *person’s* preferred name or pronouns, when the school uses preferred names for gender-conforming *individuals* or when the refusal is motivated by animus toward people who do not conform to sex stereotypes.
- “Hostile environment harassment” in either education or employment, means that the complainant was subjected to unwelcome conduct of a sexual or discriminatory nature based on other protected categories, which is severe or pervasive and both subjectively and objectively offensive so as to alter the educational or employment environment and create an abusive educational or employment environment.
- “Major life activities” include functions such as caring for one’s self, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working. “Major life activities” also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine and reproductive functions.
- “Mental impairment” means any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
- “Physical impairment” means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive, digestive, genito-urinary; hemic and lymphatic; skin; and endocrine.

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- “Record of such an impairment” means has a history of or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

- “Regarded as having an impairment” means (1) has a physical or mental impairment that does not substantially limit major life activities but that is treated by a recipient as constituting such a limitation; (2) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or (3) has none of the impairments as defined above but is treated by a recipient as having such an impairment. “Regarded as having an impairment” shall not apply to impairments that are transitory and minor. A transitory impairment is an impairment with an actual or expected duration of 6 months or less.

- “Religion” means “religious creed,” “religious observance,” “religious belief,” and “creed,” and includes all aspects of religious belief, observance, and practice, including religious dress and grooming practices. “Religious dress practice” shall be construed broadly to include the wearing or carrying of religious clothing, head or face coverings, jewelry, artifacts, and any other item that is part of the observance by an individual of his or her religious creed. “Religious grooming practice” shall be construed broadly to include all forms of head, facial, and body hair that are part of the observance by an individual of his or her religious creed.

- “Responsible District Officer” means the officer identified by the District to the California Community Colleges State Chancellor’s Office, and the U.S. Department of Education, as the person responsible for receiving complaints filed pursuant to Title 5, section 59328, and Title IX of the Education Amendments of 1972, (20 U.S.C. Section 1681), and for coordinating their investigation.

- “Sex” includes, but is not limited to pregnancy, childbirth or medical conditions related to childbirth. ‘Sex’ also includes, but is not limited to, a person’s gender, as defined in section 422.56 of the Penal Code. Discrimination on the basis of sex or gender also includes sexual harassment.

- “Sexual assault” and “sexual violence” includes but is not limited to, rape, forced sodomy, forced oral copulation, rape by a foreign object, sexual battery, or threat of sexual assault.

- “Sexual harassment” is unlawful discrimination in the form of severe and pervasive unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone from or in the workplace or in the educational setting, and includes but is not limited to:

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**SAN FRANCISCO COMMUNITY COLLEGE DISTRICT  
ADMINISTRATIVE PROCEDURES MANUAL**

<b>Title:</b> <b>UNLAWFUL DISCRIMINATION</b>	<b>Number:</b> <b>AP 2.30</b>
<b>Legal Authority:</b> <b>Title 5, California Code of Regulations, Sections 59300, et seq.; California Education Code Section 66250, et seq.; California Government Code Section 12900, et seq.; California Labor Code Sections 96(k) – 6403.5; Title IX of the Education Amendments of 1972, 20 U.S.C. Section 1681, et seq., 34 C.F.R. Part 106, et seq.</b>	

1. Making unsolicited written, verbal, physical, and/or visual contacts with sexual overtones. (Examples of possible sexual harassment that appear in a written form include, but are not limited to: suggestive or obscene letters, notes, invitations. Examples of possible verbal sexual harassment include, but are not limited to: leering, gestures, display of sexually aggressive objects or pictures, cartoons, or posters.)
2. Continuing to express sexual interest after being informed that the interest is unwelcomed.
3. Making reprisals, threats of reprisal, or implied threats of reprisal following a rebuff of harassing behavior. The following are examples of conduct in an academic environment that might be found to be sexual harassment: implying or actually withholding grades earned or deserved; suggesting a poor performance evaluation will be prepared; or suggesting a scholarship recommendation or college application will be denied.
4. Engaging in explicit or implicit coercive sexual behavior within the work environment which is used to control, influence, or affect *an* employee's career, salary, and/or work environment.
5. Engaging in explicit or implicit coercive sexual behavior within the educational environment that is used to control, influence, or affect the educational opportunities, grades, and/or learning environment of a student.
6. Offering favors or educational or employment benefits, such as grades or promotions, favorable performance evaluations, favorable assignments, favorable duties or shifts, recommendations, reclassifications, etc., in exchange for sexual favors.
7. Awarding educational or employment benefits, such as grades or duties or shifts, recommendations, reclassifications, etc. to any student or employee with whom the decision maker has a sexual relationship and denying such benefits to other students or employees.
8. Sexual assault or other sexual violence or misconduct.

- "Sexual misconduct" includes a range of behaviors such as sexual assault, sexual harassment, intimate partner violence (e.g., domestic violence, dating violence), stalking, voyeurism, and any other conduct of a sexual nature that is nonconsensual, or has the purpose or effect of threatening, intimidating, or coercing a person, such as intimidation or bullying.

- "Sexual orientation" means heterosexuality, homosexuality and bisexuality.

- "Stalking" means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for *their* safety or the safety of others, or to suffer substantial emotional distress.

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• “Unlawful discrimination” means discrimination, *or the unjust or prejudicial treatment of an individual or group people*, based on a category protected under Title 5, section 59300 et seq., *or Title IX of the Education Amendments of 1972*, including sexual harassment, harassment based on a protected group or category status as set forth in Board Policy 1.30, and retaliation for reporting unlawful discrimination. In addition, the District will accept complaints of discrimination or harassment on the additional bases prohibited by District policy. Hostile environment harassment is also prohibited discrimination.