

SAN FRANCISCO COMMUNITY COLLEGE DISTRICT  
ADMINISTRATIVE PROCEDURE MANUAL

<b>Title:</b> <b>GENDER DIVERSITY AND INCLUSION</b>	<b>Number:</b> <b>AP 2.34</b>
<b>Legal Authority:</b> Title 5, California Code of Regulations, Sections 59300, et seq.; California Education Code Section 66250, et seq.; California Government Code Section 11135 through 11139.8, and 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>Related to</b> <b>CCLC AP 3433</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 2.30, 2.31 and 2.32, and the procedures therein, and AP 2.35 are applicable to complaints of discrimination as described herein, and state that the District has jurisdiction to receive and investigate complaints filed under either Title 5 or Title IX.

**B. Policy**

The San Francisco Community College District shall treat all students, employees, applicants, contractors, vendors, and visitors with dignity and respect, regardless of gender, gender identity and/or gender expression. No student, employee, contractors, vendors, visitors, etc., may harass, discriminate or retaliate against anyone based on their gender, gender identity, and gender expression or transition status.

**C. Definitions:**

- Cisgender: Describes someone whose gender identity matches what is typically associated with the sex assigned at birth. *“Cisgender” also describes someone who takes on the social role and gender identity based on their sex assignment at birth.*
- “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. Under Title IX, sex-based discrimination includes sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender

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identity.

- “Gender” means a person’s gender, 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” is also a social role that is often means a person’s internal sense of gender identity, gender social role, and a social classification that refers to one’s sense of self/identification as “a man;” “a woman;” “nonbinary;” “agender;” “bigender;” “two-spirit,” etc.*
- “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 *gender* stereotypes, and includes, but is not limited to misgendering, bathroom policing (e.g., following, monitoring, and/or confronting transgender, non-binary and/or gender nonconforming individuals in restrooms and/or locker rooms), social isolation, manipulation, engaging in harassing, threatening or intimidating conduct or bullying in person or through other electronic means.
- Gender expression: The manner in which individuals display or express their gender, via appearance, dress, hairstyle, voice, speech patterns, social interactions, names, gender pronouns ( she, he, they, etc.), and mannerisms, which can all express gender. The gender a person expresses may not be *exclusively masculine or feminine*. It may be masculine, feminine, neither, or both.
- Gender identity: A person’s sense of being male, female, or something other or in-between. This is regardless of the sex assigned at birth. Gender identity is not the same definition as gender expression or sexual orientation.
- Gender-nonbinary: Describes someone whose gender identity is something other than male or female. Nonbinary people may identify as gender-fluid, genderqueer, off the binary, agender (without gender), or something else.
- Gender-nonconforming: Describes those whose gender traits and/or conduct do not fit into society’s traditional standards. These individuals may or may not be transgender.
- “Hostility based on sex or sex-stereotyping” *is negative, inappropriate, unwelcome or unwanted conduct towards individuals who do not conform to sex stereotypes. It includes conduct such as refusing to use a transgender person’s name or pronouns when the District uses chosen names and personal pronouns for gender-conforming individuals or when the refusal is motivated by animus toward individuals who do not conform to sex stereotypes, or other unwelcome conduct such as bathroom policing, defacement of restroom signage, etc.*

- “Hostile environment harassment” in either education or employment, means that the complainant was subjected to negative, inappropriate or unwanted conduct based on certain characteristics and unreasonably interferes with an individual’s learning or work environment. Conduct is offensive where a reasonable person with the same characteristics as the victim of the conduct would be adversely affected to a degree that interferes with their ability to participate in or to realize the intended benefits of an institutional program/activity, employment or resource. As single incident of harassing conduct may be deemed sufficient to create a hostile environment if the conduct unreasonably interferes with the employment or education of the victim. Under Title IX, “hostile environment” occurs when there is unwelcome sex-based conduct that, given the totality of the circumstances, is subjectively and objectively offensive and so severe or pervasive that it limits or denies a person’s ability to participate in or benefit from the recipient’s education program or activity.
- “Misgendering” means willfully and/or repeatedly failing to use a transgender *or gender diverse* person’s correct name *and/or* pronouns, after being clearly informed of the *correct* name or pronoun.
- “Sexual orientation” means heterosexuality, homosexuality and bisexuality, an individual’s attraction or non-attraction to people. An individual’s orientation can be fluid and people can use a variety of labels to describe their orientation. Sexual orientation is distinct from gender identity and expression. Some, but not all, types of attraction/non-attraction or orientation include: sexual, sensual, aesthetic, intellectual, romantic, and platonic.
- Transgender: Broadly describes those whose gender identity or gender expression is different from the sex assigned at birth:
  - A transgender man is someone who identifies as a man, *but who was not assigned male at birth.*
  - A transgender woman is someone who identifies as a woman, *but who was not assigned female at birth.*
  - Those who identify as androgynous, genderqueer, nonbinary, or other identities may also consider themselves transgender.
  - Some people described by this definition do not consider themselves transgender, and may use other words. They may simply identify as a man or a woman.
- Transitioning: Generally refers to an individual’s experience with socially and/or medically identifying and/or presenting in a way that is consistent with their gender identity. This process varies greatly among transgender, nonbinary, two-spirit and other gender-nonconforming people, and can be a complex process that takes a long time. It could also simply require one or two steps. Transitioning may include telling

family, friends, co-workers, and others (coming out); changing names and/or gender on legal documents; and accessing medical treatment, such as hormones and surgery. However, an individual does not need to take any of these steps to transition. Not all transgender individuals follow the same transition process. A person's transition status is confidential and private information and shall be treated confidentially.

- Two-Spirit: Derived from the Northern Algonquin word "niizh manitoag," meaning "two spirits." Refers to the inclusion of both feminine and masculine components within a single individual. Currently used to reconnect with tribal traditions, resist traditional definitions of gender, and signify fluidity and non-linearity in identity processes.
- "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 2.30, 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.

#### **D. Confidentiality and Privacy**

District students, employees, applicants, contractors, vendors, and visitors have the right to discuss their gender identity or gender expression openly or keep that information private. The medical, personal, or intimate details about an individual's gender identity, transgender status, or transition are confidential, and it is up to the individual to decide when, with whom, and how much of their private information to share.

This information is confidential under state privacy laws. Individuals must consent before anyone besides themselves shares any of their personal, confidential information. Managers and supervisory employees, faculty, staff and students must also be sensitive to transgender, nonbinary or gender-nonconforming employees' special concerns, such as safety, privacy, transitioning, etc. Spreading rumors or gossiping about anyone's gender identity or gender expression is inappropriate and in violation of this policy, as well as BP & AP 2.30 and/or the Code of Student Conduct. 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 expulsion or termination.

#### **F. Transitioning Individuals**

Many students and employees continue to attend classes/programs and work while they transition. Some individuals seek medical treatment as part of their gender transition, while others may not. District management, faculty, staff and students must foster a respectful

educational and work environment for transitioning individuals. The District’s Human Resources Department and Student Affairs Division will provide guidance as to the manner in which an individual’s transition should be handled in the workplace and educational environment.

A transitioning individual’s colleagues and shall only be given the individual’s chosen name and pronoun(s). All other personal information about the individual remains confidential and shall not be discussed or released without the individual’s prior consent, as noted in the “Confidentiality & Privacy” section of this policy.

**G. Names and Pronouns**

Employees, applicants, contractors, vendors and visitors shall be addressed by the names and pronouns they choose. An individual may have a chosen name displayed on District-issued, public documents such as employee identification badges, student identification cards, class rosters, etc. Students and employees may also have their email addresses reflect their chosen names.

Employees shall use their legal names for certain purposes, such as payroll, retirement accounts, and the Human Resources system (PeopleSoft). Only Human Resources and Payroll employees may see official employee records. Students shall use their legal names for certain purposes such as academic records (e.g., transcripts, Financial Aid, FAFSA), payroll, student employment records (e.g., W2, W4.) Where an individual’s legal name must be used in the system, it is shall be treated as confidential information.

**H. Appearance and Attire**

All individuals including transgender, nonbinary, two-spirit and other gender non-conforming individuals have the right to dress in a way that corresponds with their gender identity and/or gender expression. Attire of employees should align with departmental dress codes and professional roles, however, should not vary based on gender.

**I. Access to Gender-Specific Facilities**

Students, employees, applicants, contractors, vendor and visitors are entitled to use facilities and shared spaces that correspond to their gender identity and/or gender expression.

Managers and supervisors must make reasonable efforts to provide access to facilities in a way that allows employees to keep their transgender, nonbinary, two-spirit or gender-nonconforming status confidential. All-gender restrooms, locker rooms, and other facilities are open to District students, employees, applicants, contractors, vendors and visitors, regardless of their gender identities. No student, employee, applicant, contractor, vendor or visitor may harass or question transgender, nonbinary, two-spirit and gender-nonconforming individuals about their facility choices.

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**J. Reporting Violations - Informal & Formal Complaint Procedures:**

Discrimination or harassment as defined above, based on sex, including sex stereotypes and sex characteristics, gender, gender identity, or gender expression is a violation of this and other District policies, including BP & AP 2.30, 2.31, 2.32, 2.35, and the Code of Student Conduct, and could result in discipline, up to and including expulsion or termination. The District encourages all students, employees, applicants, contractors, vendors and visitors to report harassing, retaliatory, or discriminatory behavior under the procedures as described in AP 2.30, regardless of whether if the behavior is directed at themselves or co-workers. Employees are expected to comply with the reporting requirements contained in AP 2.35.

When a person or someone on behalf of a person subject to unlawful discrimination on the basis of gender, gender identity and/or gender expression brings charges of unlawful discrimination or harassment 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 or formal complaint process, the responsible District officer will treat the complaint confidentially, pursuant to the policies and procedures as outlined in BP & AP 2.30, and AP 2.35. All complaints, except those addressed pursuant to AP 2.35, must be filed within six months (for employees), or one year (for students) of the date of the incident, or the date the individual should have first become aware of it.

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