

STOCKTON UNIVERSITY



POLICY

Student Policy Prohibiting Sexual Misconduct and Discrimination in the Academic / Educational Environment

Policy Administrator: Chief Officer for Institutional Diversity and Equity

Authority: Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq., Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq., Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 701 et seq., Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 1201 et seq., Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, 20 U.S.C. § 1092(f).

Effective Date: August 2009; February 16, 2011; September 21, 2011; May 8, 2013; September 16, 2015

Index Cross-References: Procedure 1200 – Student Procedure Prohibiting Sexual Misconduct and Discrimination in the Academic / Educational Environment

Policy File Number: I-120

Approved By: Board of Trustees

I. POLICY

A. Statement of Intent

Stockton University is committed to providing every student with an environment free from discrimination, harassment, intimidation and/or bullying. Prohibited discrimination, harassment, intimidation and/or bullying undermines the integrity of the student relationship, compromises equal opportunity, debilitates morale and interferes with educational productivity.

Nothing in this policy, however, shall restrict the University's ability to promptly act to ensure the safety and integrity of the University community.

B. Protected Categories

Under this policy, discrimination/harassment, intimidation and/or bullying based upon the following protected categories are prohibited and will not be tolerated: race, creed, color, national origin, nationality, ancestry, age, sex/gender (including pregnancy), marital status, civil union status, domestic partnership status, familial status, religion, affectional or sexual orientation, gender identity or expression, atypical hereditary cellular or blood trait, genetic information, liability for service in the Armed Forces of the United States, or disability, including perceived disability, physical, mental and/or intellectual disabilities.

C. Applicability

This policy applies to all students of Stockton University. Stockton will not tolerate behavior and conduct that violates this policy by anyone in the community. This policy applies to conduct which occurs in the workplace/educational environment and also extends to conduct which occurs at any location that can be reasonably regarded as an extension of the college, such as any field location, any off-site campus-related social function, or any facility where Stockton University business is being conducted and discussed.

This policy also applies to third party harassment. Third party harassment is unwelcome severe, pervasive or persistent conduct involving any of the protected categories referred to in section IB above that is not directed at an individual by others at the University, including faculty, staff, students, vendors and contractors, but is a part of that individual's academic environment. Third party harassment based upon any of the aforementioned protected categories is prohibited by this policy.

This policy incorporates the Stockton's Off Campus Behavior Policy that can be found in the Student Handbook. This policy also recognizes that Title IX of the Education Amendments of 1972 ("Title IX") referred to in section IIIA below reinforces Stockton's Off-Campus Behavior Policy by applying the provisions of the policy to off campus actions of sex/gender discrimination and sexual misconduct even in a non-University affiliated facility.

This policy will not be applied to abridge a student's exercise of free speech or expression which is protected by the Constitution of the State of New Jersey, or the First Amendment to the U.S. Constitution.

Outside groups contracted by Stockton to perform services at the University come under the purview of this policy.

II. ADA-REHABILITATION ACT

The Americans with Disabilities Act of 1990, 42 U.S.C. §§ 1201-12213 as amended ("ADA") and Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 701 et seq. ("Section 504") prohibit discrimination against qualified persons with disabilities and requires the University to provide reasonable accommodations.

III. TITLE IX

Title IX of the Education Amendments of 1972 (20 U.S.C. §1681 et seq.) (“Title IX”) states that **no person** in the United States shall, on the basis of sex, be excluded from participation in, or denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal assistance.

Sex discrimination is conduct that denies or limits an individual’s ability to benefit from or fully participate in educational programs or activities or employment opportunities because of an individual’s sex, gender, affectional or sexual orientation.

Sexual misconduct is a term used to capture sexual harassment, gender-based harassment and sexual violence.

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when, for example:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment or academic standing;
- Submission to or rejection of such conduct by an individual is used as the basis for employment and/or academic decisions affecting such individual; or
- Such conduct has the purpose or effect of unreasonably interfering with an individual’s academic/work performance or creating an intimidating, hostile or offensive academic/work environment.

Examples of conduct that may, when severe, pervasive or persistent, constitute sexual harassment and are therefore a violation of this policy include, but are not limited to:

- Generalized gender-based remarks and comments;
- Unwanted physical contact such as intentional touching, grabbing, pinching, brushing against another’s body or impeding or blocking movement;
- Verbal, written or electronic lewd, vulgar or obscene comments, jokes or unwanted propositions including letters, notes, e-mail, text messages, invitations, gestures or inappropriate comments about a person’s clothing;
- Visual contact, such as leering or staring at another’s body; gesturing; displaying sexually suggestive objects, cartoons, posters, magazines or pictures of scantily-clad individuals; or displaying sexually suggestive material on a bulletin board, on a locker room wall, or on a screen saver in areas where individuals besides the poster can view these materials;
- Explicit or implicit suggestions of sex by a faculty/staff/administrator in return for a favorable educational or employment action such as hiring, compensation, promotion, retention, grades, recommendations, etc.;

- Suggesting or implying that failure to accept a request for a date or sex would result in an adverse educational/employment consequence with respect to any academic/employment practice such as evaluation or promotional opportunity; or
- Continuing to engage in certain behaviors of a sexual nature after an objection has been raised by the target of such inappropriate behavior.

Gender-based harassment means non-sexual harassment of a person because of the person's sex and/or gender, including, but not limited to, harassment based on the person's nonconformity with gender stereotypes. Gender-based harassment is considered to be sexual misconduct.

Sexual violence is a form of sexual harassment under Title IX and refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving *consent* due to the complainant's *incapacitation* through the use of drugs or alcohol. A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery and sexual coercion. All forms of sexual violence are considered to be sexual misconduct.

A. Title IX Coordinator

All individuals should be aware that the Chief Officer/Title IX Coordinator oversees the entire policy and is Stockton's Title IX Coordinator whose responsibilities include, but are not limited, to overseeing all Title IX complaints and identifying and addressing any patterns or systemic problems that arise during the review of such complaints.

B. Reporting and Confidentially Disclosing Sexual Misconduct

Stockton University encourages complainants of sexual violence or other forms of sexual misconduct to talk to someone about what happened – so complaints can get the support they need and the University can respond appropriately.

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act"), 20 U.S.C. § 1092(f) requires all postsecondary institutions participating in Title IV student financial assistance programs to disclose campus crime statistics and security information. Acts of sexual violence are violations under criminal laws, as well as under Title IX, and are [Clery Act](#) crimes that **must** be reported by Campus Security Authorities to the Campus Police Department for statistical reporting, without disclosing any personal identifying information if the complainant chooses not to report. It is important to note that *a complainant of sexual violence has the right to choose not to report the incident to the police.*

IV. CONFIDENTIALITY OF COMPLAINTS, INVESTIGATIONS, AND HEARINGS

All complaints, investigations, and hearings shall be handled, to the extent possible, in a manner that will protect the privacy interests of those involved. To the extent practical and appropriate under the circumstances, confidentiality will be maintained throughout the investigatory and/or hearing process. In the course of an investigation or hearing it may be necessary to discuss the claims with the alleged accused individual(s) and other persons who may have relevant knowledge. Therefore, it may be necessary to disclose information to persons with a legitimate need to know about the matter. All persons interviewed will be directed not to discuss any aspect of the investigation and/or hearing with others in light of the important privacy interests of all concerned. Failure to comply with this confidentiality directive may result in disciplinary action.

V. RETALIATION PROHIBITED

Retaliation against any person who alleges discrimination/harassment, including sexual misconduct, provides information in the course of an investigation and/or hearing into claims of prohibited discrimination/harassment, including sexual misconduct, or opposes a discriminatory practice, is prohibited by this policy. No person bringing a complaint, providing information for an investigation and/or hearing, or testifying in any proceeding under this policy shall be subjected to adverse academic and/or employment consequences based upon such involvement or be the subject of other retaliation.

VI. FALSE ACCUSATIONS OR INFORMATION

If any person knowingly makes a false accusation of unlawful discrimination/harassment or who knowingly provides false information in the course of an investigation of a complaint and/or during a hearing of a complaint, such conduct may be grounds for discipline. Complaints made in good faith, however, even if found to be unsubstantiated, will not be considered a false accusation.

VII. CONSENSUAL RELATIONSHIPS

Because the relationship between teacher and student is central to the academic mission of the college, it is essential to establish that a standard of expected conduct in that relationship goes beyond the proscription against sexual harassment. Non-academic or personal ties should NOT be allowed to interfere with the academic integrity and ethics of the teacher/student relationship. With respect to sexual relations in particular, what might appear to be consensual, even to the parties involved, may in fact not be so. On this basis, any sexual relations between teacher and a student of that teacher are inappropriate and unethical. Any person in a supervisory capacity or a position of authority enters at peril into sexual relations with a student and/or subordinate.

VIII. DISSEMINATION

Stockton shall annually distribute the policy described in this section, or a summarized notice of it, to all of its students. The policy, or summarized notice of it, shall also be posted in conspicuous locations throughout the buildings and grounds of the University. Stockton shall distribute the policy to vendors/contractors with whom Stockton has a direct relationship.

Legislative History

	Date
Faculty Senate	N/A
Provost's Council	N/A
Provost	N/A
President	5/27/15
Board of Trustees	9/16/15