



Jamestown Community College
Policies and Procedures

Policy Title	Sexual Harassment Response and Prevention	Policy Number	145
Section	Governance, Organization and General Information	Approval Date	
Subsection	Individual Rights	Effective Date	12/11/2018
Responsible Office	Human Resources	Review Date	12/11/2018

1.0 Purpose

1.1 Jamestown Community College (JCC) and the State University of New York (SUNY) are committed to maintaining a workplace and campus free from sexual harassment. Sexual harassment is a form of discrimination. JCC and SUNY have a zero-tolerance policy for any form of sexual harassment, and all employees and students are required to act in a manner that prevents sexual harassment at JCC. This Policy is one component of JCC's and SUNY's commitment to a discrimination-free workplace and campus environment.

1.2 Sexual harassment is against the law. All employees and students have a legal right to a workplace and campus free from sexual harassment, and employees and students can enforce this right by filing a complaint internally with JCC, or with a government agency or in court under federal, state or local antidiscrimination laws.

2.0 Policy

2.1 SUNY's uniform Sexual Harassment Response and Prevention Policy Statement set forth below applies to all JCC students, employees, applicants for employment, interns, whether paid or unpaid, contractors and persons conducting business with JCC:

SUNY Sexual Harassment Response and Prevention Policy Statement

Sexual harassment is a form of sex discrimination which is unlawful in the workplace under Title VII of the Civil Rights Act of 1964, as amended, and the New York State Human Rights Law. Under Title IX of the Educational Amendments of 1972, sexual harassment also is prohibited in the provision of educational services and protects students and employees from sexual harassment.

Sexual harassment is prohibited and will not be tolerated at SUNY. The University has implemented measures to address and prevent sexual harassment and is taking additional affirmative steps to increase awareness of, and sensitivity to, all forms of sexual harassment in order to maintain a workplace and learning environment free of its harmful effects.

Sexual harassment is a form of workplace discrimination and employee misconduct, as well as a form of discrimination in the academic setting, and all employees and students are entitled to work and learn in a campus environment that prevents sexual harassment. All employees and students have a legal right to a workplace and a campus free from sexual harassment, and employees and students can enforce this right by filing a complaint internally with JCC, or with a government agency, or in court under federal or state anti-discrimination laws, as detailed in the Section 3.0 Procedures set forth below.

In accordance with applicable law, sexual harassment is generally described as unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of employment or academic benefit; or
- Submission to or rejection of the conduct is used as the basis for an employment or academic decision affecting the person rejecting or submitting to the conduct; or
- The conduct has the purpose or effect of unreasonably interfering with an affected person's work or academic performance, or creating an intimidating, hostile or offensive work or learning environment.

Sexual harassment can include physical touching, verbal comments, non-verbal conduct such as leering or inappropriate written or electronic communications, or a combination of these things. Examples of sexual harassment may include, but are not limited to:

- Seeking sexual favors or a sexual relationship in return for the promise of a favorable grade or academic opportunity;
- Conditioning an employment-related action (such as hiring, promotion, salary increase, or performance appraisal) on a sexual favor or relationship; or
- Intentional and undesired physical contact, sexually explicit language or writing, lewd pictures or notes, and other forms of sexually offensive conduct by individuals in positions of authority, co-workers or student peers, that unreasonably interferes with the ability of a person to perform their employment or academic responsibilities.
- Physical acts of a sexual nature, such as:
 - Touching, pinching, patting, kissing, hugging, grabbing, brushing against, or poking another person's body;
 - Rape, sexual battery, molestation or attempts to commit these assaults.
- Unwanted sexual advances or propositions, such as:
 - Requests for sexual favors accompanied by implied or overt threats concerning a target's job performance evaluation, a promotion or other job benefits or detriments, or an educational benefit or detriment;
 - Subtle or obvious pressure for unwelcome sexual activities.

- Sexually oriented gestures, noises, remarks, jokes or comments about a person’s sexuality or sexual experience, which create a hostile environment.
 - Sex stereotyping occurs when conduct or personality traits are considered inappropriate simply because they may not conform to other people's ideas or perceptions about how individuals of a particular sex should act or look.

- Sexual or discriminatory displays or publications, such as:
 - Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic. This includes such sexual displays on computers or cell phones and sharing such displays while in the workplace or classroom.

- Hostile actions taken against an individual because of that individual’s sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity, and the status of being transgender, such as:
 - Interfering with, destroying or damaging a person’s workstation, tools or equipment, or otherwise interfering with the individual’s ability to perform his or her employment or academic duties;
 - Sabotaging an individual’s work;
 - Bullying, yelling, name-calling.

Such behavior can constitute sexual harassment regardless of the sex, gender, sexual orientation, self-identified or perceived sex, gender expression, status of being transgender, or gender identity of any of the persons involved. Sexual harassment is considered a form of employee and student misconduct which may lead to disciplinary action. Further, supervisors and managers will be subject to discipline for failing to report suspected sexual harassment or otherwise knowingly allowing sexual harassment to continue. Employees and students who believe they have been subjected to sexual harassment may use the Section 3.0 Procedures set forth below.

Retaliation against a person who files a complaint, serves as a witness, or assists or participates in any manner in this procedure, is unlawful, is strictly prohibited and may result in disciplinary action. Retaliation is an adverse action taken against an individual as a result of complaining about or provides information regarding unlawful discrimination or harassment, exercising a legal right, and/or participating in a complaint investigation as a third-party witness. Adverse action includes being discharged, disciplined, discriminated against, or otherwise subject to adverse action because the individual reports an incident of sexual harassment, provides information, or otherwise assists in any investigation of a sexual harassment complaint. Participants who experience retaliation may file a complaint pursuant to the Section 3.0 Procedures set forth below.

3.0 Procedures

3.1 Sexual harassment is offensive, is a violation of our policies, is unlawful, and subjects JCC to liability for harm to victims of sexual harassment. Harassers may also be individually subject to liability. Students and employees of every level who engage in sexual harassment, including managers and supervisors who engage in sexual harassment or who knowingly allow such behavior to continue, will be penalized for such misconduct.

3.2 JCC will conduct a prompt, thorough and confidential investigation that ensures due process for all parties, whenever JCC receives a complaint about sexual harassment, or otherwise knows of possible sexual harassment occurring. Effective corrective action will be taken whenever sexual harassment is found to have occurred. All students, employees, including managers and supervisors, are required to cooperate with any internal investigation of sexual harassment.

3.3 All students and employees are encouraged to report any harassment or behaviors that violate this policy. JCC will provide all students and employees a complaint form for students and employees to report harassment and file complaints.

3.4 Managers, supervisors, and residence hall staff are required to report any complaint that they receive, or any harassment that they observe to the JCC Director of Human Resources.

3.5 This policy applies to all students, employees, paid or unpaid interns, and non-employees and all must follow and uphold this policy. This policy must be posted prominently in all work locations and be provided to students upon matriculation and employees upon hiring.

3.6 Reporting Sexual Harassment

3.6.1 Preventing sexual harassment is everyone's responsibility. JCC cannot prevent or remedy sexual harassment unless it knows about it. Any student, employee, paid or unpaid intern or non-employee who has been subjected to behavior that may constitute sexual harassment is encouraged to report such behavior to a supervisor, manager, residence hall staff, or to the JCC Director of Human Resources. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior to a supervisor, manager, residence hall staff, or the JCC Director of Human Resources.

3.6.2 Reports of sexual harassment may be made verbally or in writing. A form for submission of a written complaint is available in the JCC Human Resources office, and all students and employees are encouraged to use this complaint form. Employees who are reporting sexual harassment on behalf of other employees should use the complaint form and note that it is on another employee's behalf.

3.6.3 Employees, paid or unpaid interns or non-employees who believe they have been a victim of sexual harassment may also seek assistance in other available forums, as explained below in the section on Legal Protections.

3.7 Supervisory Responsibilities

3.7.1 All supervisors, managers, and residence hall staff who receive a complaint or information about suspected sexual harassment, observe what may be sexually harassing behavior or for any reason suspect that sexual harassment is occurring, are required to report such suspected sexual harassment to the JCC Director of Human Resources.

3.7.2 In addition to being subject to discipline if they engaged in sexually harassing conduct themselves, supervisors, managers, and residence hall staff will be subject to discipline for failing to report suspected sexual harassment or otherwise knowingly allowing sexual harassment to continue.

3.7.3 Supervisors, managers, and residence hall staff will also be subject to discipline for engaging in any retaliation.

3.8 Complaint and Investigation of Sexual Harassment

3.8.1 All complaints or information about suspected sexual harassment will be investigated, whether that information was reported in verbal or written form. Investigations will be conducted in a timely manner, and will be confidential to the extent possible.

3.8.2 An investigation of any complaint, information or knowledge of suspected sexual harassment will be prompt and thorough, and should be completed within 30 days. The investigation will be confidential to the extent possible. All persons involved, including complainants, witnesses and alleged perpetrators will be accorded due process to protect their rights to a fair and impartial investigation.

3.8.3 Any student and any employee may be required to cooperate as needed in an investigation of suspected sexual harassment. Students and employees who participate in any investigation will not be retaliated against.

3.8.4 Investigations will be done in accordance with the following steps:

- Upon receipt of complaint, the JCC Director of Human Resources will conduct an immediate review of the allegations, and take any interim actions, as appropriate. If complaint is oral, encourage the individual to complete the “Complaint Form” in writing. If he or she refuses, prepare a Complaint Form based on the oral reporting.
- If documents, emails or phone records are relevant to the allegations, take steps to obtain and preserve them.
- Request and review all relevant documents, including all electronic communications.
- Interview all parties involved, including any relevant witnesses.
- Create a written documentation of the investigation (such as a letter, memo or email), which contains the following:
 - A list of all documents reviewed, along with a detailed summary of relevant documents;
 - A list of names of those interviewed, along with a detailed summary of their statements;
 - A timeline of events;
 - A summary of prior relevant incidents, reported or unreported; and
 - The final resolution of the complaint, together with any corrective actions action(s).
- Keep the written documentation and associated documents in the employer’s records.
- Promptly notify the individual who complained and the individual(s) who responded of the final determination and implement any corrective actions identified in the written document.
- Inform the individual who complained of their right to file a complaint or charge externally as outlined below.

3.9 Legal Protections and External Remedies

3.9.1 Sexual harassment is not only prohibited by JCC but is also prohibited by state, federal, and, where applicable, local law.

3.9.2 Aside from the internal process at JCC, students and employees may also choose to pursue legal remedies with the following governmental entities **at any time**:

3.9.3 New York State Division of Human Rights (DHR). The Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 et seq., applies to employers in New York State with regard to sexual harassment, and protects employees, paid or unpaid interns and non-employees regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with DHR or in New York State Supreme Court.

Complaints with DHR may be filed any time **within one year** of the harassment. If an individual did not file at DHR, they can sue directly in state court under the HRL, **within three years** of the alleged discrimination. An individual may not file with DHR if they have already filed a HRL complaint in state court.

Complaining internally to JCC does not extend your time to file with DHR or in court. The one year or three years is counted from date of the most recent incident of harassment.

You do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

DHR will investigate your complaint and determine whether there is probable cause to believe that discrimination has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If discrimination is found after a hearing, DHR has the power to award relief, which varies but may include requiring your employer to take action to stop the harassment, or redress the damage caused, including paying monetary damages, attorney's fees and civil fines.

DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458, (718) 741-8400, www.dhr.ny.gov

Contact DHR at (888) 392-3644 or visit dhr.ny.gov/complaint for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to DHR. The website also contains contact information for DHR's regional offices across New York State.

3.9.4 United States Equal Employment Opportunity Commission (EEOC). The EEOC enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.). An individual can file a complaint with the EEOC anytime within 300 days from the harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint, and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.

The EEOC does not hold hearings or award relief, but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred.

If an employee believes that he/she has been discriminated against at work, he/she can file a “Charge of Discrimination.” The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (1-800-669-6820 (TTY)), visiting their website at www.eeoc.gov or via email at info@eeoc.gov

If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

3.9.5 Local Protections. Many localities enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city or town in which they live to find out if such a law exists.

3.9.6 Contact the Local Police Department. If the harassment involves physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. Contact the local police department.

4.0 Definitions

5.0 References

5.1 New York State Combating Sexual Harassment in the Workplace

5.2 SUNY Policy 6507: Sexual Harassment Response and Prevention Statement