



## POLICY

### **Student Policy Prohibiting Discrimination and Harassment in the Academic/Education Environment**

Policy Administrator: Director of Title IX and EEO, Title IX Coordinator

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; August 31, 2020

Index Cross-References: Procedure 1200 – Student Procedure Prohibiting Discrimination in the Academic / Education Environment

Policy File Number: I-120

Approved By: Board of Trustees

### I. POLICY

#### A. Protected Categories

Stockton University is committed to providing every University student and prospective University student with an academic/education environment free from prohibited discrimination or harassment. Under this Policy, forms of discrimination or harassment based upon the following protected categories are prohibited and will not be tolerated: race, creed, color, national origin, nationality, ancestry, age, sex/gender, 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.

To achieve the goal of maintaining an academic/education environment free from discrimination and harassment, the University strictly prohibits the conduct that is described in this Policy. This is a zero tolerance Policy. This means that the University reserves the right to take either disciplinary action, if appropriate, or other corrective action, to address any unacceptable conduct that violates this Policy, regardless of whether the conduct satisfies the legal definition of discrimination or harassment.

#### B. Applicability

Prohibited discrimination and harassment undermines the integrity of the

academic/education relationship, compromises equal opportunity, debilitates morale, and interferes with academic/education productivity. Stockton University will not tolerate harassment or discrimination by anyone in the academic/ education environment including students, employees or persons doing business with the University, and vendors performing services at the University. This Policy applies to both conduct that occurs on Stockton University's campuses and instructional sites and conduct that occurs at any location which can be reasonably regarded as an extension of the University (any field location, any off-site academic/education-related social function, campus-sponsored housing, or any facility where University business is being conducted).

This Policy also applies to all social media activity, including personal posts, that adversely affects the academic/education environment defined by this Policy.

Third party harassment based upon any of the aforementioned protected categories is also prohibited by this Policy. Third party harassment is unwelcome behavior based upon any of the protected categories referred to in Section I.A. above that is not directed at an individual but exists in and interferes with the academic/education environment.

Nothing in this Policy restricts the University's ability to promptly act to ensure the safety and integrity of the University community.

This Policy is not intended to abridge a student's exercise of freedom of speech or expression which is protected by the Constitution of the State of New Jersey and the First Amendment to the U.S. Constitution.

## II. PROHIBITED CONDUCT

### A. Defined

It is a violation of this Policy to engage in any academic/education practice or procedure that treats an individual less favorably based upon any of the protected categories referred to in Section I.A. above.

It is also a violation of this Policy to use derogatory or demeaning references regarding a person's race, gender, age, religion, disability, affectional or sexual orientation, ethnic background, or any other protected category set forth in Section I.A. above: A violation of this Policy can occur even if there was no intent on the part of an individual to harass or demean another.

Examples of behaviors that may constitute a violation of this Policy include, but are not limited to:

- Discriminating against an individual with regard to the academic/education environment because of being in one or more of the protected categories referred to in Section I.A. above;
- Treating an individual differently because of the individual's race, color, national origin or other protected category, or because an

individual has the physical, cultural or linguistic characteristics of a racial, religious, or other protected category referred to in Section I.A. above;

- Substantially disrupting, limiting, or denying another individual's ability to participate in, or benefit from, University activities because of association with or membership in any organization related to any of the protected categories referred to in Section I.A. above;
- Calling an individual by an unwanted nickname or telling jokes pertaining to one or more protected categories referred to in Section I.A. above;
- Using derogatory references in any communication with regard to any of the protected categories referred to in Section I.A. above;
- Engaging in threatening, intimidating, or hostile acts toward another individual in the academic/education environment because that individual belongs to, or is associated with, any of the protected categories referred to in Section I.A. above; or
- Displaying or distributing materials, in the academic/education environment that adversely impacts the academic/education environment, including electronic communications that contain derogatory or demeaning language or images pertaining to any of the protected categories referred to in Section I.A. above.

## B. Sexual Harassment

It is a violation of University Policy, State, and federal law to engage in sexual (or gender-based) harassment of any kind, including hostile work environment harassment, quid pro quo harassment, or same-sex harassment. For the purposes of this Policy, 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 a student's participation in an academic/education activity;

Submission to or rejection of such conduct by a student is used as the basis for academic decisions affecting such individual; or

Such conduct has the purpose or effect of unreasonably interfering with a student's academic performance or creating an intimidating, hostile or offensive academic/education environment.

Examples of prohibited behaviors that may constitute sexual harassment and are therefore a violation of this Policy may 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 sexually suggestive or obscene comments, jokes or propositions including letters, notes, e-mail, text

messages, invitations, gestures or inappropriate comments about a person's appearance;

- 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;
- An employee conditioning the provision of an aid, benefit, or service of the University on an individual's participation in sexual conduct;
- Suggesting or implying that failure to accept a request for a date or sex would result in an adverse academic/educational consequence; or
- Continuing to engage in certain behaviors of a sexual nature after an objection has been raised by the target of such inappropriate behavior.

### III. CONSENSUAL RELATIONSHIPS

The relationship between teacher and student is central to the academic mission of the University. Non-academic or personal ties must not interfere with the academic integrity and ethics of the teacher/student relationship. Any sexual relations between teacher and a student of that teacher are inappropriate and unethical. It is inadvisable for any person in a supervisory capacity or a position of authority to engage in sexual relations with a student and/or subordinate.

### IV. TITLE IX and TITLE IX COORDINATOR

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 education program or activity receiving federal assistance.

This Policy incorporates Stockton's Campus Conduct Code (Policy I-55) and applies to off campus actions that involve sex/gender discrimination and sexual misconduct, including at a non-University affiliated facility. Note that Title IX complaints may be subject to jurisdictional limitations.

The Director of Title IX and EEO is Stockton's Title IX Coordinator. Contact the Director of Title IX and EEO if you:

- Have inquiries about Title IX and Stockton's response to sex/gender discrimination, sexual harassment, and other forms of sexual misconduct;
- Have inquiries about sex/gender discrimination, which includes sexual harassment as defined in the Federal Title IX Regulations and State law;
- Need guidance, assistance, or resource information on how to handle a situation in which you believe you were indirectly affected;
- Wish to make a report and/or formal complaint; or

- Want to provide feedback on how Stockton is fulfilling its Title IX responsibilities.

Under the 2020 Federal Title IX Regulations, sexual harassment is defined as conduct on the basis of sex that satisfies one or more of the following: (1) an employee conditioning the provision of aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct; (2) unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to a University education program or activity; or (3) sexual assault as defined in the Clery Act and incorporates the definitions of dating violence, domestic violence, and stalking.

#### V. ADA AND 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.

#### VI. REPORTING DISCRIMINATION OR HARASSMENT

Any student who believes that they have been subjected to any form of prohibited discrimination/harassment, or who witnesses others being subjected to such discrimination/harassment, is encouraged to promptly report the incident(s) to the University's Director of Title IX and EEO, Title IX Coordinator or to any other persons designated by the University to receive discrimination complaints.

All students are strongly encouraged to cooperate with investigations.

#### VII. CONFIDENTIALITY

Consistent with State and federal laws and regulations, all complaints and investigations 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 shall be maintained throughout the investigative process. In the course of an investigation, it may be necessary to discuss the claims with the person(s) against whom the complaint was filed and other persons who may have relevant knowledge or who have a legitimate need to know about the matter.

The University strives to protect the integrity of the investigation, minimize the risk of retaliation against the individuals participating in the investigative process, and protect the important privacy interests of all concerned. In matters that do not involve the requirements of the 2020 Federal Title IX Regulations, the Office for Institutional Diversity and Equity shall request that all persons interviewed, including witnesses, not discuss any aspect of the investigation with others, unless there is a legitimate reason to disclose such information. Failure to comply with this confidentiality directive may result in disciplinary action.

#### VIII. DISSEMINATION

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

#### IX. COMPLAINT PROCESS

The University shall follow Procedure 1200 - Student Procedure Prohibiting Discrimination in the Academic/Education Environment and all other applicable policies and procedures, with regard to reporting, investigating, and where appropriate, remediating claims of discrimination/harassment. The University is responsible for designating an individual or individuals to receive complaints of discrimination/harassment, investigating such complaints, and recommending appropriate remediation of such complaints. In addition to the Director of Title IX and EEO, Title IX Coordinator, the University shall designate an alternate person to receive claims of discrimination/harassment.

Complainants have the burden to articulate a sufficient nexus between the alleged conduct and their membership in a protected category. The investigations shall be conducted in a prompt, thorough and impartial manner. Following investigation, discrimination/harassment claims will proceed pursuant to Procedure 1200 - Student Procedure Prohibiting Sexual Misconduct and Discrimination in the Academic/Education Environment and Procedure 1032 – Campus Hearing Board – Students.

Where a violation of this Policy is found to have occurred, the University shall take prompt and appropriate remedial action to stop the conduct and deter its reoccurrence.

The remedial action taken may include supportive measures under the 2020 Federal Title IX Regulations, including, but not limited to: counseling, training, intervention, mediation, and/or the initiation of disciplinary action up to and including expulsion from the University.

The University shall maintain a written record of the discrimination/harassment complaints received. Written records shall be maintained as confidential records to the extent practicable and appropriate.

#### X. PROHIBITION AGAINST RETALIATION

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

Following are examples of prohibited action taken against a student because the student has engaged in activity protected by this subsection:

- Giving students failing grades
- Preventing students from participating in school activities
- Threatening expulsion
- Intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege under this Policy.

#### FALSE ACCUSATIONS AND INFORMATION

A person who knowingly makes a false accusation of prohibited discrimination/harassment or knowingly provides false information in the course of an investigation of a complaint, may be subjected to administrative and/or disciplinary action. Complaints made in good faith, however, even if found to be unsubstantiated, shall not be considered a false accusation.

#### XI. TRAINING

The University shall provide training on the Policy and applicable procedures set forth in this section on an annual basis.

#### Review History:

	Date
Policy Administrator	06/22/2020
Divisional Executive	06/22/2020
General Counsel	06/26/2020
Cabinet	07/02/2020
President	07/06/2020
Board of Trustees	08/31/2020

*\*The Policy Administrator and all references to the "Chief Officer for EEO and Compliance" were changed to the "Director of Title IX and EEO, Title IX Coordinator" on August 31<sup>st</sup>, 2023.*