

3.170.01 Harassment, Sexual Harassment, Discrimination and Sexual Misconduct

College Learning and Working Environment

Waubonsee Community College is committed to a learning and working environment in which all individuals are treated with respect and dignity. Therefore, discrimination, harassment, sexual harassment, and sexual misconduct in any form will not be tolerated and the college requires that all relationships, communications and interactions by and among board members, employees, students, visitors and/or college contractors/consultants be free of discrimination and harassment.

It is the policy of the board that no student, employee, board member, visitor or college contractor/consultant be subjected to, or cause any other individual to be subjected to, harassment, sexual harassment, discrimination or sexual misconduct based on an individual's actual or perceived race, color, creed, religion, gender, gender identity, sex, sexual orientation, age, national origin, ancestry, veteran's status, military status, unfavorable discharge from military service, marital status, order of protection status, pregnancy, disability, citizenship status, or any other characteristic protected by law while on college premises or in connection with an individual's education or employment at the college. Violations of this policy will result in appropriate discipline, including dismissal or expulsion, in accordance with the college's governing remediation procedures.

Pursuant to governing law, the scope of the college's responsibility to remedy harassment, sexual harassment, discrimination and/or sexual misconduct against and by both employees and non-employees is expressly limited. The college is responsible for harassment, sexual harassment, discrimination and/or sexual misconduct of employees and/or non-employees by the college's nonmanagerial and nonsupervisory employees only if the college becomes aware of the conduct and fails to take reasonable corrective measures.

Harassment, sexual harassment, discrimination and sexual misconduct include, but are not limited to, conduct that has the effect of substantially interfering with an individual's educational or job performance, creates an intimidating, hostile or offensive educational or employment environment, or that otherwise adversely affects an individual's educational or employment opportunities.

Creation of Hostile Environment Prohibited

Hostile environment harassment, sexual harassment or discrimination consists of any unwelcome verbal or physical conduct on the basis of an individual's actual or perceived race, color, creed, religion, gender, gender identity, sex, sexual orientation, age, national origin, ancestry, veteran's status, military status, unfavorable discharge from military service, marital status, order of protection status, pregnancy, disability, citizenship status, or any other characteristic protected by law that has the purpose or effect of substantially interfering with the individual's work or educational performance or creating an intimidating, hostile or offensive working or educational environment. For purposes of this definition, the terms "working or educational environment" is not limited to a physical location in which an

employee is assigned to perform their duties or at which a student is scheduled to meet for classes. The offensive conduct must be connected to the individual's education or employment at the college and be sufficiently severe, persistent, pervasive and objectively offensive so that it alters the conditions of education or employment. A hostile environment may be determined to have been created based on the frequency of the conduct and/or its severity.

Quid Pro Quo Sexual Harassment Prohibited

Sexual harassment includes unwelcome conduct of a sexual nature and includes sexual advances, requests for sexual favors or other verbal, non-verbal or physical conduct of a sexual nature. The behavior becomes harassing and actionable when submission to such conduct is made either explicitly or implicitly a term or condition of a person's educational progress or employment, or when submission to or rejection of such conduct by an individual is used as the basis for an educational or employment decision affecting that person.

Violent Sexual Misconduct Actionable Under this Policy

Sexual misconduct encompasses intentional acts that rise to the level of violent sexual misconduct including, but not limited to, rape, sexual assault, sexual abuse, dating violence, domestic violence, and stalking. In addition to the foregoing, examples may include non-consensual sexual assault and battery, actions that are sexually exploitative or degrading, retaliatory and/or abusive acts directed toward former relationship partners, or retaliatory/abusive actions directed toward someone who has rejected the efforts of another to establish a relationship.

Consent is defined as a freely given agreement to the act of sexual penetration or sexual conduct in question. Lack of verbal or physical resistance or submission resulting from the use of force or threat of force shall not constitute consent. Consent to past sexual activity does not constitute consent to future sexual activity and consent to engage in sexual activity with one person does not constitute consent to engage in sexual activity with another person. A person's manner of dress does not constitute consent. Consent can be revoked or withdrawn at any time. Consent to sexual activity cannot be made or assumed if the person is unable to understand the nature of the activity or give knowing consent due to circumstances including, but not limited to, the following:

- The person is incapacitated due to the use or influence of alcohol or drugs;
- The person is asleep or unconscious;
- The person is under age; or
- The person is incapacitated due to a mental disability.

Abuse of Supervisory Authority Prohibited

Consensual sexual relationships in situations where one individual has power or authority over another raise questions of propriety and ethics. Such relationships can negatively impact the college environment and may give rise to complaints by others of favoritism while the relationship continues, and/or may result in claims of sexual harassment, sexual misconduct and retaliation when the relationship ends. Examples of such relationships may include: a faculty member and his/her student, a supervisor and a subordinate, or a coach and team player. To the extent such a sexual consensual relationship develops, the individual with the direct supervisory or evaluative responsibilities must immediately bring the relationship to the

attention of his or her supervisor. It is anticipated this will result in the necessity to remove the employee from the supervisory or evaluative responsibilities, or transfer the student from under the supervision or evaluation of the individual with whom they have established the consensual relationship. Failure to self-report such relationships to a supervisor as required can result in disciplinary action for a supervisory employee.

Harassment of Any Protected Category Prohibited

Harassing and discriminatory conduct, independent of the sexual harassment and sexual misconduct as described above, are similarly unlawful and similarly prohibited under this Policy. Such prohibited behavior includes, but is not limited to, verbal or physical conduct that subjects an individual to ridicule, hatred, shame or injury, when considered from both objective and subjective viewpoints, and is directed toward the individual based on the person's actual or perceived race, color, creed, religion, gender, gender identity, sex, sexual orientation, age, national origin, ancestry, veteran's status, military status, unfavorable discharge from military service, marital status, order of protection status, pregnancy, disability, citizenship status, or any other characteristic protected by federal or state of Illinois law and has the effect of substantially interfering with an individual's educational or job performance, creating an intimidating, hostile or offensive educational or employment environment, or otherwise creates limits or denies an individual's educational or employment opportunities.

Scope of Individuals Protected Under Policy

Prohibitions against harassment, sexual harassment, discrimination and sexual misconduct include, but are not limited to, the conduct of a board member towards an employee, student or other board member; an employee towards a student or a board member; a student towards an employee; a student towards another student; a supervisor towards a subordinate; an employee towards another employee; a volunteer, independent contractor/consultant, or authorized campus visitor towards an employee or student; a board member, employee or student toward a volunteer or a contractor/consultant; or an employee towards an applicant for employment. Harassment, sexual harassment, discrimination and sexual misconduct are prohibited regardless of the fact that the complainant and alleged offender are members of the same employee group and/or position level. If directly related to college activities, this policy may be applied to conduct outside the college as well as on college premises.

Retaliation Prohibited

Retaliation against a reporting party for filing a complaint of harassment, sexual harassment, discrimination or sexual misconduct or against anyone participating in or thought to have reported or participated in a report or investigation of harassment, sexual harassment, discrimination or sexual misconduct is considered a form of discrimination and is strictly prohibited by this policy and by federal and state law.

Claims of retaliation will be treated in the same manner as other claims of harassment, sexual harassment, discrimination or sexual misconduct.

This Policy Provides for Incorporation of Changes in Law and College Complaint Procedures

This policy may be revised by action of the Board of Trustees or by the enactment of a new or amended federal or state of Illinois law. If the policy is revised due to a new or amended federal or state law, the board will be informed of this type of change at the next regularly scheduled

board meeting. Appropriate procedures to implement this policy will be established in accordance with federal and state of Illinois law and will be distributed to the board on an annual basis or as revisions are made. Policy in effect at the time of the offense will apply even if the Policy is changed subsequently, unless the parties consent to be bound by the current Policy. Any revisions will be noted in the online version of the Policy and procedures will include the date of revision and will highlight the specific revisions for three months following the date of the revision.

The Complaint Procedures to implement this Policy are directly applicable to this Policy and are incorporated by reference herein, as if set forth in their entirety.

Formerly Policy STU 40.43 (Adopted: 04/19/2000) and Policy PER 40.40 (Adopted: 04/19/2000)

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