



Anti-Harassment & Complaint

Anti-Harassment & Complaint Policy

Approved by and date:

Board of Trustees 12/11/2017

Executive Leadership Team 11/16/2017

Policy:

No member of the Kilgore College community may harass another. The College implements a specific way to review and resolve complaints of harassment by any member of the staff or faculty against another staff or faculty member. Appropriate corrective action will be taken by the College when it determines that harassment has occurred.

Procedures:

Approved by and date:

Executive Leadership Team 11/16/2017

Each supervisor has the responsibility to maintain a workplace free of harassment. This responsibility includes discussing this policy with all employees and assuring them that they are not to endure insulting, degrading, or exploitative treatment.

Definition

Harassment is written, electronic, verbal or physical conduct that denigrates or shows hostility or aversion toward an employee or group of employees because of sex, race, color, religion, age, national origin, disability, veteran's status, genetic information, or any other characteristic protected by institutional policy or local, state, or federal law and:

- a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or
- b. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting the individual; or
- c. Such conduct is so severe, persistent, or pervasive that it has the effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or demeaning employment environment, and such conduct would do so for a reasonable person in the individual's position.

Harassing conduct includes (1) epithets, slurs, negative stereotyping, or threatening, intimidating, or hostile acts that relate to any of the above listed protected classifications and/or (2) written or graphic material that denigrates or shows hostility or aversion toward an individual or group because of membership in any of the above listed protected classifications and that is placed on walls, bulletin boards, or elsewhere on College premises, or is circulated in the workplace. Harassment is prohibited regardless of whether or not the alleged harasser shares the same gender, sex, age, race, creed, national origin, religion, disability, or veteran status as the complaining party. Harassment is prohibited

whether in the form of supervisor-employee, employee-employee, employee-student.

Prohibited Conduct

Employees will not engage in conduct constituting harassment. College officials or their agents will investigate all allegations of harassment and officials will take prompt and appropriate disciplinary action against employees found to engage in conduct constituting harassment.

Sexual harassment is a form of sex discrimination. Generally, sexual harassment includes any sexual advances that are unwelcome or sexually motivated conduct. Sexual harassment means conduct amounting to more than an occasional, isolated, or trivial act or remark. The following examples of sexual harassment are illustrations of prohibited conduct, but are not an all-inclusive list of such conduct:

- a. Physical assault, sexual advances, or touching intimate body parts.
- b. Direct or implied threats that submission to sexual advances will be a condition of employment, work status, promotion or letters of recommendation.
- c. Direct propositions of a sexual nature.
- d. A pattern of conduct intended to discomfort or humiliate a person that includes one or more of the following:
 - 1) Comments of a sexual nature.
 - 2) Sexually explicit statements, questions, jokes, pictures, or anecdotes, even when carried out under the guise of humor regarding a particular classification.
 - 3) Unnecessary touching, patting, hugging, or brushing against a person's body.
 - 4) Remarks of a sexual nature about a person's clothing or body.
 - 5) Remarks about sexual activity or speculations about previous sexual experience.

Generally, other types of harassment (race, religion, nation origin, etc.) include any attention based on such classification that is unwelcome. Harassment is conduct amounting to more than an occasional, isolated, or trivial act or remark. The following examples of harassment are illustrations of prohibited conduct, but are not an all-inclusive list of such conduct:

- a. Physical assault based on the classification.
- b. A pattern of conduct intended to discomfort or humiliate a person that includes statements, questions, jokes, pictures, or anecdotes (even when carried out under the guise of humor), or remarks in general about a person's clothing, body or culture regarding such classification.

Complaint Guidelines

A complaint will be filed within twenty (20) business days of the date of the alleged conduct. If the complainant fails to report the alleged conduct within 20 business days, it could impair the College's ability to investigate and/or address the alleged conduct. The complainant is strongly encouraged to submit the complaint in writing. The complainant will be provided a copy of the College's anti-harassment policy and will be informed about the formal process of filing a complaint. Supervisory employees who suspect violations of this policy are required to submit a report. All other employees are encouraged to report known or suspected violations. All complaints and reports must be submitted to the director of human resources.

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All complaints of sexual harassment against a student must be submitted through the College's Nondiscrimination and Student Grievance Policy. The investigation and/or other requirements of the grievance process under the Nondiscrimination and Student Grievance Policy will be followed in all instances involving sexual harassment against a student.

Investigation Guidelines

All reports and complaints of harassment will be reviewed and are subject to investigation by the director of human resources or designee. Upon receipt of any such report or complaint, the director of human resources will determine whether the allegations, if proven, would constitute prohibited conduct as defined by this policy. If there is a determination that the allegations, if proven, would constitute prohibited conduct, as defined herein, then the director of human resources or designee will immediately undertake an investigation. If there is a determination that the allegations, even if proven, would not constitute prohibited conduct as defined herein, then the College may still take action if warranted, but the complaint will be dismissed. The complainant will be notified of same in writing.

The investigation will be conducted by the director of human resources or designee. When appropriate, a third party (such as an attorney) may be the designee. When investigating the complaint, he/she will act as an impartial party rather than a representative of either the complaining or accused parties, and will not offer opinions on the matter when interviewing and investigating. Efforts will be made to maintain confidentiality of both parties during any investigation to the extent provided by law and to the extent it does not hinder the investigation, but, confidentiality cannot be guaranteed in any circumstance. This duty of confidentiality also extends to the complainant, alleged harasser, and others involved in the investigation. The College will attempt to complete this investigation within 30 days, though this is a goal rather than a deadline.

The following is a general guideline for investigations, but the course of an investigation may vary from case to case. An investigation normally will begin with an initial interview or meeting with the complainant. During the initial meeting with the complainant, information should be gathered such as the date, time, place, nature of the alleged harassment, frequency of the alleged conduct, the complainant's response or reaction to the alleged conduct, and the names of any witnesses. The investigator shall interview other witnesses and gather other relevant evidence.

After meeting with the complainant and others with knowledge of the circumstances surrounding the allegations or relevant to the allegations, the director of human resources or designee will then meet with the alleged harasser. The alleged harasser will be provided a copy of this policy. If the director of human resources or designee determines that the nature of the charge appears to warrant immediate action, appropriate steps may be taken (with the approval of the College President) to protect the alleged harasser, or the complainant, or both, pending further investigation.

If the alleged harasser does not deny the complainant's material allegations, the director of human resources or designee may attempt to resolve the complaint informally by acting as a facilitator or mediator between the alleged harasser and the complainant. Any proposed solutions or agreements are subject to the College President's approval. If the alleged harasser denies the complainant's material allegations, or if the director of human resources or designee determines that the matter deserves further inquiry, further investigation may be conducted.

After the investigation, a written report with findings and/or recommendations for action will be presented to the College President, to the complaining party, and to the alleged harasser. A written report will be prepared even if the investigator concludes that there is no evidence of a violation of the anti-harassment policy or if there is a mutually agreed upon informal resolution. This written report will be automatically reviewed by the College President. Both the complaining party and the alleged harasser will be given the opportunity to provide a written statement and other evidence for the College President's review and the deadline for providing same will be given to both parties in writing. The College President will review the evidence and facts and make a final determination in the case. The College may take action based on the results of the investigation and review of the College President even if the conduct did not rise to the level of Prohibited Conduct. If the results of the investigation and review by the College President indicate that prohibited conduct occurred, then the College will take appropriate action. Actions may include, but are not limited to, written warning, reassignment, suspension from work, or termination of employment. If termination is recommended for the alleged harasser and the alleged harasser is a contractual employee, then the alleged harasser may follow the appeal guidelines as discussed in the Termination of Employment policy for Term Employees. In all other instances, the automatic review by the College President is the final level of appeal.

Retaliation Forbidden

Retaliation against an individual who complains of harassment, an employee who reports harassment, or an employee who serves as a witness regarding same will not be tolerated and is a violation of College policy. Examples of retaliation include such negative employment actions as: termination, demotion, denial of promotion, unjustified negative evaluations, or refusal to hire. Retaliation may result in disciplinary action up to and including termination of an employee. Any person who feels that he or she is being retaliated against, either during or after an investigation pursuant to this policy, will report the incidents of retaliation to the investigator or human resources director. Such reports should be made as soon as possible after the alleged act. Failure to promptly report may impair the College's ability to investigate and/or address the alleged conduct.

Other Provisions

A copy of this anti-harassment policy is to be available upon request by any faculty or staff member.

Sexual harassment may result in not only civil liability but also criminal liability on the part of the harassing individual. Likewise, false charges may result in civil liability against the complaining party.

An employee who intentionally makes a false claim, offers a false statement, or refuses to cooperate with a College investigator under this policy is subject to appropriate discipline, up to and including termination.