

Filing a Complaint



A student, staff, or faculty member who believes that he or she has been sexually harassed may initiate a complaint with the Office of Employee

Relations and Compliance. The Office of Employee Relations and Compliance shall investigate complaints of sexual harassment and coordinate a formal investigation, a mediated intervention, or a formal mediation.

A formal investigation shall be initiated by the complainant filing and submitting a Formal Complaint Form with the Office of Employee Relations and Compliance. The procedures and time schedule for a formal investigation shall be available from the investigating office.

Mediated interventions shall include but not be limited to steps to stop the harassing behavior or to remove the complainant or alleged harasser from the harassing environment.

At any time from the initiation of a complaint to the conclusion of the campus investigation, either party or the university may suggest a confidential, nonbinding formal mediation of the dispute. Both

parties and the university shall agree to any formal mediation and any resolution that arises therefrom.

Without filing a formal complaint, a student, faculty member, or staff member may discuss with staff in the Office of Employee Relations and Compliance behaviors that could be sexual harassment. If a described behavior fits the definition of sexually harassing behavior, some intervention may be required.

The university shall ensure that formal procedures appropriate to university complaints are followed. These procedures shall be governed by law, labor agreements, and university policy.



OFFICE OF EMPLOYEE RELATIONS AND COMPLIANCE

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Sexual Harassment

The Facts About Sexual Harassment



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The Facts

San Diego State University shall be committed to preventing sexual harassment and to promptly addressing violations of this policy. The university shall create and maintain a positive learning and working environment for its students and employees and shall not tolerate sexual harassment. Nothing herein shall contravene rights guaranteed in the Constitution of the State of California or the Constitution of the United States.

Sexual harassment and its behaviors shall be prohibited by the university: Sexual harassment is demeaning and degrading and a form of prohibited discrimination on the basis of sex. As an affront to one's dignity, sense of self, and self-esteem, it can negatively impact performance at work or in an academic setting.

Sexual harassment is illegal: It is a violation of state and federal laws including the California Education Code, sec. 212.5, Title VII of the Civil Rights Act of 1964, and Title IX of the Education Amendments of 1972. Sexual harassment is specifically prohibited in The California State University by CSU Executive Order 1096 (2014).

This policy shall apply to all persons at the university or attending university sponsored classes, events, and programs. Visitors to the campus and workers employed by private firms engaged in business on the campus shall comply with this policy.

Sexual harassment shall be the unwelcome imposition of sexual attention often in the context of a relationship of unequal power. This policy shall apply to men and women equally with regard to both opposite sex and same sex harassment.

Sexual harassment shall be any conduct, physical or verbal, that is sexual and has the effect of unreasonably interfering with a person's or a group's educational or work performance or that creates an intimidating, hostile, or abusive educational or work environment.

Because academic freedom shall be safeguarded and the openness and integrity of the teaching process shall be protected, discussion of sexual topics and the discussion and display of sexually explicit materials and the touching of students in certain classroom settings may be professionally appropriate and shall not necessarily constitute "sexual harassment."

The California Education Code, sec. 212.5, states: "Sexual harassment means unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone from or in the work or educational setting, under any of the following conditions:"

"Submission to the conduct is explicitly or implicitly made a term or a condition of an individual's employment, academic status, or progress."

"Submission to, or rejection of, the conduct by the individual is used as the basis of employment or academic decisions affecting the individual."

"The conduct has the purpose or effect of having a negative impact upon the individual's work or academic performance, or of creating an intimidating, hostile, or offensive work or educational environment."

"Submission to, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through the

educational institution."

Examples of sexually harassing conduct may include but shall not be limited to the following: (a) sexual assault, (b) derogatory comments of a sexual nature, (c) displaying sexually suggestive pictures or objects, (d) graphic verbal commentaries about a person's body, (e) impeding or blocking movements, (f) jokes of a sexual nature, (g) slurs of a sexual nature, (h) suggestive gestures, (i) unwelcome touching. Some of these examples may not, however, constitute sexual harassment if appropriate to reasonable academic purposes.

Conduct may be found to be sexually harassing if it is pervasive or repetitive and sufficiently severe to alter the conditions of employment, education, or participation in university-sponsored activities or is a single incident sufficiently outrageous or harmful in and of itself that it substantially alters the conditions of the environment for the complainant or interferes with a person's right to pursue an education or to perform a job-related responsibility.

Intent of Sexually Harassing Behavior: A claim by an alleged harasser that he or she did not intend to commit sexual harassment is not, as the law currently stands, a defense to a complaint of sexual harassment. Regardless of intent, the effect, characteristics, and context of the behavior shall determine whether the behavior constitutes sexual harassment.

