

SECTION: Student Services

POLICY TOPIC: Student Non-Discrimination and Sexual Harassment Policy

I. General Rule

San Juan College is committed to providing equal educational and employment opportunities regardless of race, color, religion, national origin, physical or mental disability, age, sex, sexual orientation, gender identity, genetics, or veteran's status. Equal educational opportunity includes admission, recruitment, course participation and grading, extracurricular programs and activities, facilities, access to course offerings, counseling and testing, financial assistance, and employment, which are free from acts constituting discrimination and/or sexual harassment. San Juan College does not discriminate on the basis of sex in its education programs and activities and Federal law (Title IX – 20 U.S.C. § 1681 et seq.) prohibits such discrimination.

II. General Provisions

For general policy purposes, sexual harassment may be described as unwelcome sexual advances, requests for sexual favors, bullying or intimidation to secure sexual favors, and other physical and verbal behavior of a sexual nature where submission to such conduct has the purpose or effect of unreasonably interfering with an individual's academic performance, school activity, or creates an intimidating, hostile, or demeaning campus environment. The College will not tolerate sexual harassment by any of its students or employees. Offenders will be disciplined appropriately where evidence substantiates a violation of this policy.

III. Scope

All forms of harassment are prohibited, including sexual harassment. Sexual harassment may include repeated offensive, unwelcome sexual flirtations; unwelcome personal attention, advances, or propositions; requests for sexual favors; gestures and other verbal or physical conduct of a sexual nature. Sexual violence is a form of sexual harassment.

IV. Policy Regarding The Support Of Transgender And Gender Nonconforming Students

San Juan College provides transgender students equal access to all educational programs, facilities, and activities. In accordance with Title IX:

1. San Juan College will treat a student's gender identity as the student's sex. In order to gender identify, a student or the student's parent or guardian, as appropriate, must notify the College administration that the student will assert a gender identity that differs from the student's previous representations or records. Once notified, San Juan College will begin treating the student consistent with the student's gender identity.
2. San Juan College does not have any type of medical diagnosis or treatment requirement for students in order for the student to be treated consistent with the student's gender identity.
3. San Juan College does not require students to produce identification documents in order to be treated consistent with their gender identity.
4. San Juan College faculty, employees, and staff will use pronouns and names consistent with a transgender student's gender identity.
5. San Juan College does not require transgender students to use facilities inconsistent with their gender identity or to use individual-user facilities when other students are not required to do so.
6. Transgender students may participate in all college activities in a manner consistent with the student's gender identity. San Juan College will not discipline or exclude students from participating in activities for appearing or behaving in a manner that is consistent with their gender identity.

V. Disciplinary Actions and Sanctions

Ms. Stacey Allen, Assistant Director of Human Resources at San Juan College [Office (505) 566-3515, Fax (505) 566-3251, Education Services Center, 2nd Floor, Room 4238, allens@sanjuancollege.edu] is designated as the College Title IX Coordinator. Student non-employment and employment-related inquiries and complaints concerning discriminatory actions and sexual harassment against students on campus should be filed with Ms. Allen. Inquiries about the laws and about compliance may also be directed to the Office for Civil Rights, United States Department of Education [(800) 421-3481 or ocr@ed.gov].

Students who feel that they have been discriminated against based upon their disability, or a failure to make a reasonable accommodation, may begin the complaint process by meeting with the Disability Service Coordinator to describe the reasons for the complaint, the related circumstances, and the desired resolution. The Disabilities Service Coordinator will then refer the student's complaint to the office of the Vice President for

Student Services who will oversee the investigation.

The Title IX Coordinator, or designee, or in the case of a complaint regarding discrimination against a student based upon their disability, or a failure to make a reasonable accommodation, the office of the Vice President for Student Services will review the initial complaint concerning discrimination or sexual harassment against a student and determine if action is needed. All complainants (or their parents if under age 18) will be asked to consent to an investigation before any investigation is commenced. In the event that the complaint involves a possible criminal act, all complainants are advised that they have a right to file a separate criminal complaint with law enforcement agencies separate and apart from any school-related complaint. The Title IX Coordinator, or in the case of a complaint regarding disability or failure to make a reasonable accommodation, the office of the Vice President for Student Services, will conduct an investigation and make a determination concerning the case within thirty (30) working days of receiving the complaint. All determinations made by the Title IX Coordinator will be based on a preponderance of the evidence then available. The decision of the Title IX Coordinator will be made in writing and given to both parties as well as the Vice President for Student Services. In the case of a complaint regarding disability or failure to make a reasonable accommodation, the decision of the office of the Vice President for Student Services will be made in writing and given to both the complaining and responding party. The complainant will only be notified of any sanction imposed on the respondent if the sanction directly relates to the complaining student. If it is determined that there was a hostile environment or an environment that allowed sexual violence to take place, the Title IX Coordinator and the Vice President for Student Services will take immediate action to eliminate the hostile environment to prevent its reoccurrence and address its effects.

VI. Appeal Process

Any party who is dissatisfied with the determination has the right to file an appeal within fifteen (15) working days of notification of the decision. A written notice of appeal must be filed by the aggrieved party with the Office of the Vice President for Student Services. The Vice President for Student Services has ten (10) working days from receipt of the signed notice of appeal to schedule in a timely manner an appeals committee to hear the matter. The appeal will be considered *de novo* by the appeal committee, which shall not be bound by the determination made by the Title IX Coordinator.

Upon receipt of the written notice of appeal, the Vice President for Student Services, or designee, will appoint an Appeals Committee composed of six (6) persons and a

chairperson. The membership of the Committee will include:

1. Two faculty members (outside the department of the alleged discrimination occurrence)
2. Two professional staff members (outside the department of the alleged discrimination occurrence)
3. Two students
4. Representative staff member from the Human Resources Office other than the Title IX Coordinator or their designee

The Vice President will mail a notification of the formal appeal hearing to all individuals involved within ten (10) working days after the receipt of the written notice of appeal. The Committee will provide all involved individuals an opportunity to present relevant evidence and witnesses and present arguments, and the hearing will comply with due process requirements. Cross-examination of the complainant or responding party will be done by written questions submitted to the Vice President for Student Services after a short break in the hearing to minimize the potential for a hostile environment. The Appeals Committee will determine the outcome based on all information provided at the formal hearing. The decision of the Appeals Committee becomes official upon a majority vote and must be based on a preponderance of the evidence standard.

The written decision of the Appeals Committee will be given to the individuals involved, the Title IX Coordinator, the Vice President for Student Services, and the President within five (5) working days following the completion of the appeal hearing. The complainant will only be notified of any sanctions imposed on the respondent if the sanction directly relates to the complaining student. Any decision of the Appeals Committee may be appealed to the President within ten (10) working days following the hearing by delivering a written notice of appeal to the Office of the President. Upon receipt of the written notice for appeal, the President will review the decision based on the record presented within thirty (30) working days. There will be no appearance or oral argument presented to the President. The decision of the President is final and non-appealable. Records of the Appeals Committee decision will be kept in the offices of the Vice President for Student Services and the Title IX Coordinator.

VII. Appeals Committee Hearing Guidelines

When an Appeal hearing is scheduled, an Appeals Committee will be established according to the process outlined above. Written outlines of the positions of the two parties, the Appellant (the person appealing) and the Appellee (the non-appealing party),

should be prepared in advance and presented to the Appeals Committee for use at the hearing. The Committee will also be provided with the documentation that was previously submitted to the Title IX Coordinator by each party.

All parties participating in the appeal hearing should be prepared to make an oral presentation to the Appeals Committee, providing them with specifics regarding the situation. Oral presentations shall be limited to a maximum of 20 minutes per side; approximately 10 minutes for follow-up questions for each party will be allowed.

Both parties (Appellant and Appellee) may be present during oral presentations to the Appeals Committee and the rebuttals (if any). A five-minute rebuttal by each party will be permitted after both presentations have been made, if desired. There is no time limit on questions from the Appeals Committee.

Appellant and Appellee have the opportunity to provide the Appeals Committee with a maximum of a three page double-spaced summary of the situation. (This is optional and must be submitted by 5:00 p.m. the day before the hearing to the Office of the Vice President for Student Services. The Vice President will provide copies of this summary to the Committee members for their review by 9:00 a.m. the day of the appeal).

Each party is permitted to invite one individual to accompany him/her to the appeal meeting for assistance and moral support; however, these individuals are not allowed to comment or speak during the proceedings.

During the time the Appellant is making his/her presentation, the Appellee cannot comment or interrupt nor can the Appellant interrupt the Appellee when it is making its presentation.

An organized and thoughtful presentation is essential. The Chair of the Appeals Committee will monitor time and when the allowed time has expired, will move on to the next item. After the presentations, the rebuttals, and the question and answer period, the Appellant and the Appellee will be dismissed, allowing the Appeals Committee to deliberate.

Retaliation in any form against a complaining party will not be tolerated, regardless of the outcome of the investigation, initial determination, or appeal process. If complainant experiences any subsequent problems, they should immediately report them to the Title IX Coordinator.