

PROCEDURE MANUAL

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PURPOSE

Arizona Western College is committed to promoting a cooperative work and academic environment in which there exists mutual respect for all students, faculty, and staff. Harassment of employees or students based upon sex is inconsistent with this objective and contrary to the College's nondiscrimination policy. Sexual harassment is illegal under federal and state laws and will not be tolerated.

All College employees and students are strongly encouraged to keep College officials informed, through the most confidential and direct means possible, of alleged acts and/or complaints of sexual harassment.

It is the responsibility of the President, officers, deans, lead faculty, directors, managers, coordinators, athletic coaches and all other supervisory personnel to ensure a working and educational environment free of sexual harassment. All persons associated with Arizona Western College including, but not limited to, the District Governing Board, the administration, faculty, staff, students, vendors and members of the public are expected to provide an atmosphere free from sexual harassment. Any person who engages in sexual harassment while acting as a member of the College community or while on College property shall be considered to be in violation of the College's Policy and Procedure and may be subject to disciplinary measures.

PROCEDURE

1. Definition

- 1.1 For purposes of Arizona Western College's Policy and Procedure, sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other oral or written communications or physical conduct of a sexual nature when:
 - 1.1.1 Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic standing.
 - 1.1.2 Submission to or rejection of such conduct by an individual is used as a basis for employment or academic decisions affecting such individual.
 - 1.1.3 Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or abusive work or academic environment. Or
 - 1.1.4 The relationship ends in a way that is not amicable, and either or both parties wish to take action to retaliate against the other party.
- 1.2 The type of sexual harassment described in paragraph 1.1.3 above is frequently referred to as "hostile workplace" or "hostile academic environment" sexual harassment, depending upon whether the victim or victims of the harassment are employees or students. In determining whether hostile workplace and/or hostile academic

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environment sexual harassment exists, the acts of harassment are viewed from the perspective of a reasonable person.

- 1.3 To be deemed a violation of federal or state law, acts of hostile workplace and/or hostile academic environment sexual harassment are required to be severe or pervasive. This College, however, prohibits serious and/or repeated acts of hostile workplace and/or hostile academic environment harassment regardless of whether such acts rise to the level of being considered severe or pervasive.
- 1.4 Sexual harassment can occur between individuals of different genders or of the same gender. Although sexual harassment most often exploits a relationship between individuals of unequal power (such as between a faculty member and a student, supervisor and employee, or coach or athlete), it may also occur between individuals of equal power (such as between fellow students or co-workers), or in some circumstances even where it appears that the harasser has less power than the individual harassed (for example, a student sexually harassing a faculty or staff member). A lack of intent to harass may be relevant to, but will not be, determinative of whether sexual harassment has occurred.

2. Examples of Sexual Harassment

- 2.1 Sexual harassment may take different forms. Using a person's response to a request for sexual favors as a basis for an academic or employment decision is one form of sexual harassment. Examples of this type of harassment include, but are not limited to, the following:
 - 2.1.1 Requesting or demanding sexual favors in exchange for employment or academic opportunities (such as hiring, promotions, grades, or recommendations).
 - 2.1.2 Submitting unfair or inaccurate job or academic appraisals or grades, or denying training, promotion, or access to any other employment or academic opportunity, because sexual advances have been rejected.
- 2.2 Other types of unwelcome conduct of a sexual nature can also constitute sexual harassment. Examples of acts that involve this kind of sexual harassment include, but are not limited to, the following:
 - 2.2.1 Sexual comments, teasing, or jokes.
 - 2.2.2 Sexual slurs, demeaning epithets, derogatory statements, or other verbal and nonverbal abuse.
 - 2.2.3 Graphic or sexually suggestive comments about an individual's attire or body.
 - 2.2.4 Inquiries or discussions about sexual activities, unless such discussions are appropriate for a given academic course, reasonably fall within the curriculum and syllabus of such course, and are made in connection with such course.

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- 2.2.5 Pressure to accept social invitations, to meet privately, to date, or to have sexual relations.
- 2.2.6 Sexually suggestive letters, e-mails, text messages, or other written materials.
- 2.2.7 Sexual touching, brushing up against another in a sexual manner, graphic or sexually suggestive gestures, cornering, pinching, grabbing, kissing, or fondling.
- 2.2.8 Coerced sexual intercourse or sexual assault.

3. Consensual Relationships

- 3.1 Amorous dating or sexual relationships that might be appropriate in other circumstances, have inherent dangers when they occur between a faculty member, supervisor, athletic coach, advisor, or other member of the College community for whom he or she has a professional responsibility. These dangers can include but are not limited to, situations where:
 - 3.1.1 A student or employee may feel coerced into an unwanted relationship because he or she fears that refusal to enter into the relationship will adversely affect his or her education or employment.
 - 3.1.2 Conflicts of interest may arise when a faculty member, supervisor, athletic coach, advisor, or other member of the College community is required to evaluate the work or make personnel or academic decisions with respect to an individual with whom he or she is having a romantic relationship.
 - 3.1.3 Students or employees may perceive that a fellow student or coworker who is involved in a romantic relationship will receive an unfair advantage.
 - 3.1.4 The relationship may end in a way that is not amicable, and either or both parties wish to take action to retaliate against the other party.
- 3.2 Faculty members, supervisors, athletic coaches, advisors, and other members of the College community who have professional responsibility for other individuals, accordingly, should be aware that any romantic or sexual involvement with a student or employee for whom they have such a responsibility may raise questions as to the mutuality of the relationship and may lead to charges of sexual harassment. For the reasons stated above, such relationships are prohibited.
- 3.3 For the purposes of this section, an individual has “professional responsibility” for another individual at the College if he or she performs functions including, but not limited to, teaching, counseling, advising, appraising, hiring, supervising, or making decisions or recommendations that confer benefits such as promotions, financial aid award or other remuneration, or that may impact upon other academic or employment opportunities.
- 3.4 In some cases, individuals who are employees and/or students of the College initially engage in a consensual romantic or sexual relationship, but at some point in time one of the parties desires to end, or does end, the relationship. In such situations, sexual

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harassment may be found to be occurring if the conduct is no longer welcome by one of the parties yet the other party, in the workplace or other College setting, persists in attempting to resurrect the previous romantic or sexual relationship.

4. Academic Freedom

The College's Policy and Procedure shall not be interpreted so as to constitute interference with academic freedom within the context of federal and state law.

5. Sexual Harassment Complaint Procedure

5.1 The College will make a good faith effort to investigate all allegations of sexual harassment promptly and thoroughly, in accordance with the procedures outlined below.

5.1.1 Although not required to do so, a College employee or student with a complaint of sexual harassment may first attempt to resolve the problem informally through discussions with the alleged offender. A victim of sexual harassment is encouraged, but not required, to inform perceived offenders of the College's Policy and Procedure against sexual harassment and that the conduct is offensive and unwelcome.

5.1.2 Any College employee or student who wishes to file a complaint of sexual harassment should notify his or her immediate supervisor (in the case of an employee) or advisor (in the case of a student). If the complaint involves the immediate supervisor or advisor, the employee or student should contact the next higher level of supervision. In lieu of or in addition to notification of supervisory or advisory personnel, a College employee or student may contact the Office of Human Resources directly to register a complaint of sexual harassment and/or to request advice about a sexual harassment situation or issue.

5.1.3 Any supervisor or advisor who is informed of an allegation of sexual harassment **must immediately** contact the Office of Human Resources.

5.1.4 The Director of Human Resources will investigate the allegation(s) or will make the necessary arrangements to have such allegation(s) investigated. In some instances, an outside investigator may be retained. If it is determined that the College's Policy and Procedure and/or federal or state law has been violated, appropriate discipline and/or corrective action will be taken. Reasonable effort will be made to obtain a fair resolution of the complaint while protecting the confidentiality and privacy rights of all individuals involved.

5.1.5 In defining conduct that constitutes sexual harassment, federal guidelines address unwelcome conduct, and distinguish sexual harassment from a "particular action of incident(which is a) purely personal, social relationship without a discriminating effect". In determining whether conduct constitutes

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sexual harassment, the College will examine the record as a whole and the totality of circumstances, such as the nature of the sexual advances and/or conduct and the context in which the alleged incidents occurred. The determination of whether a particular conduct (a) is or is not appropriate in an academic setting, (b) violates the College's Policy and Procedure, and/or (c) violates state or federal law will be made based on the applicable facts, on a case-by-case basis.

- 5.2 An employee or student who feels subjected to conduct which, under the definitions and guidelines set for herein, allegedly constitutes sexual harassment, should keep a detailed documentary record of the offending conduct (for example, date(s) of incident(s), what was said or done, names of witnesses to the incident(s), etc.).
- 5.3 It is a violation of the College's Policy and Procedure to retaliate against any person who, in good faith, either reports an incident of alleged sexual harassment, who corroborates an allegation of sexual harassment, or who otherwise cooperates in a sexual harassment investigation. Any person found to have retaliated against another individual for reporting sexual harassment will be subject to appropriate disciplinary action, up to and including dismissal.
- 5.4 Allegations made in bad faith or use of the College's Policy and Procedure for purposes unrelated to its clear intent are expressly prohibited. Any person found to have done so will be subject to appropriate disciplinary action, up to and including dismissal.