H.1.2 (Policy) Civil Rights Discrimination, Harassment, and Retaliation
Responsible Department: Alamo Colleges District Title IX/VII/IV/ADA/504 Coordinator
Board Adoption: 10-28-14
Last Board Action: 2-23-16, 8-10-16, 11-17-16, 1-17-17, 11-15-18, 7-27-21, 3-22-22
Last Reviewed: 8-29-23

ALAMO COLLEGES DISTRICT

Policy

It is the policy of the Alamo Colleges District to provide an educational, employment and business environment free of discrimination, harassment, and retaliation based on protected criteria. Students and employees are responsible for maintaining an educational environment free of discrimination, harassment, retaliation and complying with all policies. Alamo Colleges District is committed to promoting the goals of fairness and equity in all aspects of its operations and educational programs and activities. The policies addressed in this document are subject to resolution using the Civil Rights Complaint and Resolution Procedure H.1.2.1, regardless of the status of the parties involved, whether members of the campus community, students, student organizations, faculty, administrators or staff. Alamo Colleges District reserves the right to act immediately under the following circumstances, utilizing the applicable Process A or Process B:

1. Any incidents occurring on premises owned or controlled by the College District or off-campus when the off-campus conduct could have an on-campus impact or impact on the mission or interest of Alamo Colleges District. A substantial College interest is defined to include any action that constitutes a criminal offense as defined by federal or Texas law. This includes, but is not limited to, single or repeat violations of any local, state or federal law committed in the municipality where the College is located;

2. Any situation where it appears that the accused individual may present a danger or threat to the health or safety of him/herself or others at Alamo Colleges District;

3. Any situation that significantly impinges upon the rights, property or achievements of self or others or significantly breaches the peace and/or causes social disorder;

4. Any situation that is detrimental to the educational interests or goals of the College; and/or;

5. Any online postings or other electronic communication, including cyber-bullying, cyber-stalking, cyber-harassment, etc. occurring completely outside of the College's control (e.g., not on Alamo Colleges District networks, websites or between Alamo Colleges District email accounts) when those online behaviors can be shown to cause a substantial on- campus disruption or misrepresent that the communication was authorized by Alamo Colleges District.

Process

The established Alamo Colleges District Process A or Process B will be utilized to receive, investigate, evaluate, and resolve reports or complaints of discrimination, harassment, and retaliation which are prohibited by civil rights statutes.

1. **Process A** applies only to student complaints of sexual harassment, sexual assault, dating violence, domestic violence, and stalking, as defined, and referenced by 2020 amendments to Title 34, Code of Federal Regulations, Part 106, the implementing regulations for Title IX of the Educational Amendments of 1972, 20 U.S.C. §1681 *et seq*. ("Title IX"). Those new Title IX regulations are 34 CFR §§106.8, 106.30, 106.44, and 106.45.

2. **Process B** applies to all other civil rights complaints which are not addressed by Process A, i.e., do not meet the definitions of sexual harassment, sexual assault, dating violence, domestic violence, and stalking against a student and jurisdictional requirements of §§106.30, 106.44, and 106.45 of the Title IX regulations and complaints which arise under other civil rights statutes. *(See 34 CFR §106.8(c)).* Complaints of student gender discrimination and retaliation under Title IX fall under Process B. Complaints of Sexual Harassment in which the complainant is an employee and the respondent is a student are considered Title VII Sexual Harassment complaints and are processed under Process B.

Alamo Colleges District Title IX/VII/ IV/ADA/504 Coordinator

The Alamo Colleges District Title IX/VII/IV/ADA/504 Coordinator oversees implementation of Alamo Colleges District Affirmative Action and Equal Opportunity plan, disability compliance, and the Alamo Colleges District policy on discrimination, harassment, and retaliation. Title IX of the Education Amendments of 1972, Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, and Section 504 of the Rehabilitation Act of 1973, all as amended, are federal civil rights law that prohibit discrimination, harassment, and retaliation on the basis of a protected class. Sex and gender discrimination and sexual harassment are expressly prohibited. Reports of discrimination, harassment and/or retaliation should be made to a IX/VII/IV/ADA/504 Coordinator promptly, but in no event more than 90 days after the event constituting the discrimination, harassment, or retaliation. Investigation by Alamo Colleges District does not revive any limitations period that apply to a complaint by law. Reporting is addressed more specifically in H.1.2.1 Civil Rights Complaint and Resolution Procedure.

Inquiries about this policy and procedure may be made internally by employees and students to:

Name: Linda Boyer-Owens, Alamo Colleges District Title IX/ VII/IV/ADA/504 Coordinator
Position: Associate Vice Chancellor Talent, Organization and Strategic Innovation
Address: 2222 N. Alamo Street, Room 230A-West Wing
San Antonio, Texas 78204-1429
Telephone: (210) 485-0230
Email: lboyer-owens@alamo.edu

Inquiries may be made externally to:

U.S. Department of Education, Office for Civil Rights (OCR)
Address: 400 Maryland Avenue
SW Washington, DC 20202-1100
Customer Service Hotline #: (800) 421-3481
Facsimile: (202) 453-6012
TDD#: (877) 521-2172
Email: OCR@ed.gov
Web: http://www.ed.gov/ocr

College District Policy on Nondiscrimination

Alamo Colleges District adheres to all federal and state civil rights laws banning discrimination, harassment, and retaliation in public institutions of higher education and the workplace. Alamo Colleges District will not discriminate against any employee, applicant for employment, student or applicant for admission on the basis of race, color, sex, pregnancy, religion, creed, national origin (including ancestry), citizenship status, physical or mental disability, age, marital status, sexual orientation, gender, transgender status, gender identity, gender expression, veteran or military status (including special disabled veteran, Vietnam-era veteran, or recently separated veteran), predisposing genetic characteristics, domestic violence victim status, any other protected category under applicable local, state or federal law, or persons who have opposed discrimination or participated in any complaint process on campus or before a government agency. Students and employees are required to comply with this policy. Retaliation in any form for having brought a complaint or report of discrimination or harassment based on any protected criteria, including sex and gender, is expressly prohibited.

This policy covers nondiscrimination in employment and in access to educational opportunities. Therefore, any member of the campus community, guest or visitor who acts to deny, deprive, or limit the educational, employment, and/or social access, benefits and/or opportunities of any members of the campus community on the basis of their actual or perceived membership in the

protected classes listed above is in violation of the College District policy on nondiscrimination. When brought to the attention of the College District, any such discrimination, harassment, or retaliation will be investigated and appropriately remedied by the College District according to the procedures in the Civil Rights Complaint and Resolution Procedure. Complaints or reports of discrimination, harassment, and retaliation should be addressed to:

Name: Linda Boyer-Owens, Alamo Colleges District Title IX/ VII/IV/ADA/504 Coordinator
Position: Associate Vice Chancellor Talent, Organization and Strategic Innovation

Address: 2222 N. Alamo Street, Room 230A-West Wing
San Antonio, Texas 78204-1429
Telephone: (210) 485-0230
Email: lboyer-owens@alamo.edu

College District Policy on Disability Discrimination and Accommodations

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Alamo Colleges District is committed to full compliance with the Americans with Disabilities Act of 1990 (ADA) and Section 504 of the Rehabilitation Act of 1973, which prohibit discrimination against qualified persons with disabilities, as well as other federal and state laws pertaining to individuals with disabilities. Under the ADA and its amendments, a person has a disability if he or she has a physical or mental impairment that substantially limits a major life activity, such as hearing, seeing, speaking, breathing, performing manual tasks, walking, or caring for oneself.

The Alamo Colleges District Title IX/VII/IV/ADA/504 Coordinator is responsible for coordinating efforts to comply with this disability laws, including investigation of any employee or student complaint alleging noncompliance, denial of a reasonable accommodation, or excluding or denying individuals with disabilities from an equal opportunity to educational programs, benefits and services. Complaints or reports should be addressed to:

Name: Linda Boyer-Owens, Alamo Colleges District Title IX/ VII/IV/ADA/504 Coordinator
Position: Associate Vice Chancellor
Talent, Organization and Strategic Innovation

Address: 2222 N. Alamo Street, Room 230A-West Wing
San Antonio, Texas 78204-1429
Telephone: (210) 485-0230
Email: lboyer-owens@alamo.edu

a. Students with Disabilities

Alamo Colleges District is committed to providing students with disabilities with reasonable accommodations and support needed to ensure equal access to the academic programs and

activities of the Colleges.

All accommodations are made on a case-by-case basis. A student may request an accommodation or disability services by first contacting the Office of Disability Support Services (DSS) located at the college the student attends or will be attending. DSS coordinates services for students with disabilities. DSS reviews documentation provided by the student and, in consultation with the student, determines which accommodations and services are appropriate to the student's particular needs and academic programs. DSS then issues a Letter of Accommodation for each of the student's instructors to give notice of the accommodation or service to be provided.

b. Employees with Disabilities

Pursuant to the ADA and Section 504, Alamo Colleges District will provide reasonable accommodation(s) to all qualified employees with known disabilities to enable them to perform the essential functions of the job, unless the requested reasonable accommodation would result in undue hardship to Alamo Colleges District Employees requesting accommodation may be required to provide medical certification from the employee's health care provider that includes: (1) identification of the health care provider; (2) the health care provider's diagnosis of the disabling condition; (3) specific limitations and/or suggested restrictions and their relation to the disability; and (4) suggested accommodations. Requests for accommodations should be submitted on the forms provided by Human Resources. Human Resources will engage in an interactive process with the employee to determine the reasonable accommodation(s).

College District Policy on Discriminatory Harassment

Students, staff, administrators, and faculty are entitled to a respectful working and educational environment, and Alamo Colleges District is committed to providing a work and educational environment free of harassment based on protected class. The sections below describe the specific forms of legally prohibited harassment that are also prohibited under Alamo Colleges District's policy. Retaliation for having made a complaint about discrimination or harassment or participating in an investigation is strictly prohibited.

a. Discriminatory and Bias-Related Harassment

Harassment constitutes a form of discrimination that is prohibited by law. Harassment is unwelcome conduct that is based on race, color, sex, pregnancy, religion, creed, national origin (including ancestry), citizenship status, physical or mental disability, age, marital status, sexual orientation, gender, transgender status, gender identity, gender expression, veteran or military status (including special disabled veteran, Vietnam-era veteran, or recently separated veteran), predisposing genetic characteristics, domestic violence victim status, any other protected category under applicable local, state or federal law, or persons who have

opposed discrimination or participated in any complaint process on campus or before a government agency. Harassment as to employees becomes unlawful where (1) enduring the offensive conduct becomes a condition of continued employment, or (2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive. Harassment as to students becomes unlawful where the conduct is unwelcomed and so severe, pervasive, and objectively offensive that it interferes with the access or participation in the educational process and programs at Alamo Colleges District.

A hostile environment may be created by oral, written, graphic, or physical conduct that is severe, or pervasive so as to interfere with, limit or deny the ability of an individual employment access, benefits or opportunities or that is severe, pervasive and objectively offensive so as to interfere with students' access to or participation in an educational program or activity. Merely offensive speech of a generic nature and not on the basis of a protected status does not rise to the level of unlawful harassment.

Alamo Colleges District prohibits and will not tolerate discriminatory harassment against any employee, student, visitor or guest on the basis of race, color, sex, pregnancy, religion, creed, national origin (including ancestry), citizenship status, physical or mental disability, age, marital status, sexual orientation, gender, transgender status, gender identity, gender expression, veteran or military status (including special disabled veteran, Vietnam-era veteran, or recently separated veteran), predisposing genetic characteristics, domestic violence victim status, or any other protected category under applicable local, state, or federal law or persons who have opposed discrimination or participated in any complaint process on campus or before a government agency.

b. Sexual Harassment

(1) Sexual Harassment Under Title VII

Federal and Texas law regard sexual harassment as a form of sex discrimination and, therefore, as an unlawful discriminatory practice. Sexual harassment consists of unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, educational environment, or academic status, (2) submission to or rejection of such conduct by an individual is used as the basis of employment, educational, or academic decisions affecting such individual, or (3) such conduct is sufficiently severe or, pervasive that it has the effect of unreasonably interfering with an individual's work environment or severe, pervasive and objectively offensive that it has the effect of interfering with the educational environment or access to educational programs and activities.

(2) Sexual Harassment/Sexual Misconduct Under Title IX

Under Title IX, Sexual Harassment means conduct on the basis of sex that satisfies one or more of the following:

a. An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct; *34 CFR §106.30(a)(1).*
b. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education programs or activities. *34 CFR §106.30(a)(2);*
c. "Sexual assault" as defined in the Clery Act. *34 CFR §106.30(a)(3).*
d. "Dating violence" as defined in VAWA. *34 CFR §106.30(a)(3)*;
e. "Domestic violence" as defined in VAWA). *34 CFR §106.30(a)(3);* or
f. (f) "Stalking" as defined in VAWA. *34 CFR §106.30(a)(3).*

Consensual Relationships – Employees, Officials

The College District seeks to maintain a professional educational and work environment. Romantic or sexual relationships between individuals in unequal positions are inherently problematic and potentially inconsistent with the College District's mission. Employees in positions of authority must be sensitive to the potential for sexual harassment as well as conflicts of interest in personal relationships with their subordinates or with their students.

The very existence of such a relationship exposes the College District to potential claims under Title VII and other laws. Romantic or sexual relationships between trustees and students or between employees in positions of authority and their professional responsibilities and may be cause for disciplinary action up to and including termination of employment.

When disparities in authority are present between two individuals involved in a romantic or sexual relationship, what may appear to be a consensual relationship to one of the parties may not in fact be consensual. Examples of such relationships that might be deemed to be sexual harassment include, but are not limited to:

- The subordinate party or student feels unwanted pressure to become involved and/or to continue the relationship.

- The subordinate party or student feels compelled to change behavior and/or job duties because of the relationship.

- The relationship has the purpose or effect of creating a work or academic environment in which others are negatively affected by the existence of the relationship.

Romantic or sexual relationships between trustees and students and between employees and their subordinates or students over whom they exercise authority are prohibited whether or not they result in sexual harassment. Such relationships can create problems of actual or perceived conflicts of interest, exploitation, favoritism, bias, and low morale, and these relationships undermine the integrity of the educational, supervisory and evaluation processes.

A prohibited romantic or sexual relationship shall be deemed to exist when the relationship is between:

- A trustee and a student (including work-study students);
- An employee and a student (including work-study students) when the employee is a student's instructor, advisor, counselor, tutor, or is otherwise supervisory to or in the direct chain of supervision over the student; or
- Employees when one employee is in the direct line of authority of the other.

In the event of a factual dispute about whether a relationship between an employee and a student may impact the student, the matter will be resolved through the Civil Rights Complaint and Resolution process.

(3) Consensual Relationships - Between Students

Consensual Relationships that conform to the policies of the College District, Student Code of Conduct and the specific provisions of this policy regarding consent are permitted. Consent is defined in section c.5 of this policy.

c. Sexual Misconduct

Sexual misconduct is a broad term used to encompass unwelcome conduct of a sexual nature that is prohibited by Title IX and Alamo Colleges District sexual harassment, sex/gender discrimination, sexual assault, rape, stalking, and relationship violence (including domestic and dating violence). It is a violation of this policy and the law, including Title IX, to commit these acts or to attempt to commit them, Sexual Misconduct can occur in any sex or gender configuration (i.e., between the opposite sex or same sex) regardless of sex, gender, transgender status, sexual orientation, gender identity or gender expression. Sexual Misconduct on the part of employees and students is strictly prohibited by Alamo Colleges District.

Texas law defines various violent and/or non-consensual sexual acts as crimes for which a person may be prosecuted. Additionally, Alamo Colleges District has defined categories of sexual misconduct, as stated below, for which action under this policy may be imposed. Generally speaking, Alamo Colleges District considers Non-Consensual Sexual Intercourse violations to be the most serious, and therefore typically imposes the most severe sanctions/disciplinary actions, including suspension or expulsion for students and termination for employees. However, Alamo Colleges District reserves the right to impose any level of

sanction/discipline, up to and including suspension or expulsion/termination for any act of sexual misconduct or other gender-based offenses based on the facts and circumstances of the particular complaint. Acts of sexual misconduct may be committed by any person upon any other person, regardless of the sex, gender, transgender status, sexual orientation and/or gender identity or gender expression of those involved. Acts of sexual misconduct which constitute violations of the law and Alamo Colleges District policy include the following:

(1) Sexual Harassment (as defined above)

(2) Non-Consensual Sexual Intercourse

Defined as:

- any sexual penetration or intercourse (anal, oral or vaginal),
- however slight,
- with any object or part of the body,
- by a person upon another person,
- that is without consent and/or by force.

Sexual penetration includes vaginal or anal penetration by a penis, tongue, finger or object, or oral copulation by mouth to genital contact or genital to mouth contact. Non-Consensual Sexual Intercourse has been commonly referred to as "rape." Non-Consensual Intercourse is a crime and punishable under the Texas Penal Code § 22.011(a) as "Sexual Assault" and § 22.021 as "Aggravated Sexual Assault."

(3) Sexual Violence/Non-Consensual Sexual Contact

Sexual violence refers to physical acts perpetrated against a person's will or where a person is incapable of giving consent (e.g., due to the student's age or useof drugs or alcohol, or because of an intellectual or other disability prevents the student from having the capacity to give consent).

Sexual Violence is defined as:

- any intentional sexual touching,
- however slight,
- with any object or part of the body,
- by a person upon another person,
- that is without consent and/or by force.
- Or other intentional bodily contact of a sexual nature.

Sexual touching includes any bodily contact with the breasts, groin, genitals, mouth or other bodily orifice of another individual, or any other bodily contact ina sexual manner. Sexual violence is a form of sexual harassment, and sexual harassment is prohibited by Title IX, Title VII, and state law.

(4) Sexual Exploitation

Sexual Exploitation refers to a situation in which a person takes non-consensual or

abusive sexual advantage of another, and the conduct does not fall within the definitions of Sexual Harassment, Non-Consensual Sexual Intercourse or Non- Consensual Sexual Contact. Examples of sexual exploitation include, but are not limited to:

- Sexual voyeurism (such as watching a person undressing, using the bathroom or engaged in sexual acts without the knowledge or consent of the person observed).
- Taking pictures or video or audio recording another in a sexual act, or in any other private activity without the consent of all involved in the activity or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent). Improper photography or visual recording and the promoting of improper photography, as defined by the Texas Penal Code § 21.15, are punishable crimes.
- Prostitution.
- Sexual Exploitation also includes engaging in sexual intercourse with another person while knowingly infected with human immunodeficiency virus (HIV) or other sexually transmitted disease (STD) and without informing the other person of the infection, and further includes administering alcohol or drugs (such as "date rape" drugs) to another person without his or her knowledge or consent.

(5) Consent

Consent is knowing, voluntary and clear permission by word or action, to engage in mutually agreed upon sexual activity. Since individuals may experience the same interaction in different ways, it is the responsibility of each party to make certain that the other has consented before engaging in the activity. For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct.

A person cannot consent if he or she is unable to understand what is happening or is disoriented, helpless, asleep, or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has violated this policy.

It is not an excuse that the individual respondent of sexual misconduct was intoxicated and, therefore, did not realize the incapacity of the other. Incapacitation is defined as a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent (e.g., to understand the "who, what, when, where, why or how" of their sexual interaction). This policy also covers a person whose incapacity results from mental disability, involuntary physical restraint, and/or from the taking of incapacitating drugs.

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous dating relationship is not sufficient to constitute consent. The existence of consent is based on the totality of the circumstances, including the context in which the alleged incident occurred and any similar previous patterns that may be evidenced. Silence or the absence of resistance alone is not consent. A person can withdraw consent at any time during sexual activity by expressing in words or actions that he or she no longer wants the act to continue, and, if that happens, the other person must stop immediately.

For purposes of the Texas Penal Code § 22.011(b), a sexual assault is without consent for a number of reasons, including the following:

(a) the actor compels the other person to submit or participate by the use of physical force;
(b) the actor compels the other person to submit or participate by threatening to use force or violence against the other person and the other person believes the actor has the present ability to execute the threat;
(c) the other person has not consented, and the actor knows the other person is unconscious or physically unable to resist;
(d) the actor knows that as a result of mental disease or defect the other person is at the time of the sexual assault incapable either of appraising the nature of the act or of resisting it;
(e) the other person has not consented, and the actor knows the other person is unaware that the sexual assault is occurring;
(f) the actor has intentionally impaired the other person's power to appraise or control the other person's conduct by administering any substance without the other person's knowledge;
(g) the actor compels the other person to submit or participate by threatening to use force or violence against any person, and the other person believes the actor has the ability to execute the threat; and
(h) the actor is a public servant who coerces the other person to submit or participate. In Texas, a minor (meaning a person under the age of 18 years) cannot consent to sexual activity. This means that sexual contact by an adult with a person younger than 18 years old is a crime as well as a violation of this policy, even if the minor wanted to engage in the act.

Alamo Colleges District Policy on Other Civil Rights Offenses

The following conduct is prohibited by College District Policy:

(a) Threatening or causing physical harm, extreme verbal abuse, or other conduct which threatens or endangers the health or safety of any person on the basis of their actual or perceived membership in a protected class;

(b) Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another on the basis of actual or perceived membership in a protected class;

(c) Hazing, defined as acts likely to cause physical or psychological harm or social ostracism to any person within the University/College community, when related to the admission, initiation, pledging, joining, or any other group-affiliation activity (as defined further in the Student Code of Conduct the basis of actual or perceived membership in a protected class; Hazing is also illegal under Texas law and prohibited by College District policy.

(d) Bullying, defined as repeated and/or severe aggressive behavior likely to intimidate or intentionally hurt, control or diminish another person, physically or mentally on the basis of actual or perceived membership in a protected class or other class, including sex/gender and sexual orientation. Cyberbullying is bullying that takes place using electronic technology. Bullying sometimes overlaps discriminatory harassment under Title VII and Title IX. Bullying is prohibited by this policy and other laws which prohibit harassment on the basis of protected criteria. Bullying not on the bases of a protected class is also prohibited the Texas Education Code and District Policy.

(e) Violence between those in an intimate relationship to each other on the basis of actual or perceived membership in a protected class (this includes romantic relationships, domestic and/or relationship violence);

(f) Dating Violence, as defined by § 71.0021 in the Texas Family Code, means an act, other than a defensive measure to protect oneself, by an actor that:

(i) is committed against a victim: (a) with whom the actor has or has had a dating relationship; or (b) because of the victim's marriage to or dating relationship with an individual with whom the actor is or has been in a dating relations or marriage; and

(ii) is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the victim in fear of imminent physical harm, bodily injury, assault, or sexual assault.

(iii) "Dating relationship" under the Texas Family Code means a relationship between individuals who have or have had a continuing relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on consideration of (1) the length of the relationship; (2) the nature of the relationship; and (3) the frequency and type of interaction between the persons involved in the relationship.

(iv) Dating Violence constitutes "Family Violence" under Texas law.

"Dating violence" under Title IX has the meaning assigned in the Violence Against Women Act

("VAWA"), 34 U.S.C. § 12291(a). *34 CFR §106.30(a)(3).* Under VAWA, "dating violence" means violence committed by a person:

(a) who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(b) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved in the relationship. *34 U.S.C. § 12291(a)(10).*

Domestic Violence is referred to as "Family Violence" in Texas. The Texas Family Code at § 71.004 defines "Family violence" as:(1) an act by a member of a family or household against another member of the family or household that is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the member in fear of imminent physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself; (2) abuse, as that term is defined by sections 261(1), (C), (E), and (G), by a member of a family or household toward a child or the family or household; or (3) dating violence, as that term is defined by Section 71.0021 of the Texas Family Code.

(g) *"Domestic violence"* under Title IX has the meaning assigned in VAWA. *34 CFR §106.30(a)(3).* Under VAWA, "domestic violence" includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, a person with whom the victim shares a child in common, a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, or a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction. *34 U.S.C. § 12291(a)(8).*

(h) Stalking involves an intentional course of repeated conduct or behavior over a period of time, directed at a specific person, or member of the specific person's family or household or an individual with whom the specific person has a dating relationship which abused, tormented, embarrassed or offended. Stalking and cyberstalking are behaviors prohibited by Texas law and the College District.

"Stalking" under Title IX has the meaning assigned in VAWA. *34 CFR §106.30(a)(3).* Under VAWA, "stalking" means engaging in a course of conduct directed at a specific person that would cause a reasonable person to (a) fear for his or her safety or the safety of others; or (b) suffer substantial emotional distress. *34 U.S.C. § 12291(a)(30).*

(i) Hate Crimes are defined by the Texas Government Code as crimes that are motivated by prejudice, hatred, or advocacy of violence and defined by the Federal Hate Crime Act as crimes that manifest evidence of bias or prejudice

against a group identified by race, color, disability, religion, national origin, ancestry, age, gender, or sexual orientation. Hate crimes include offenses such as murder, assault, kidnapping, arson, criminal mischief, and graffiti. Hate crimes are prohibited by Texas and federal law and this policy.

(j) Violation of any other College District rules, when the violation is motivated by the actual or perceived membership of the victim in a protected class, may be pursued using this policy and process.

College District Policy on Retaliation

Retaliation is defined as any adverse action taken against a person participating in a protected activity because of their participation in that protected activity. Retaliation against an individual for alleging harassment, supporting a complainant or for assisting in providing information relevant to a claim of harassment is a serious violation of College District policy and will be treated as another possible instance of harassment or discrimination. Acts of alleged retaliation should be reported immediately to the Alamo Colleges District Title IX/VII/IV/ADA/504 Coordinator or designated Coordinator identified in Attachment A to this Policy and will be promptly investigated. Alamo Colleges District is prepared to take appropriate steps to protect individuals who fear that they may be subjected to retaliation.

Statement of Complainant's Rights, Whether Employee or Student

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A complainant is the person who makes a complaint of civil rights discrimination, harassment, or retaliation under this policy.

(a) A complainant has the right to file a criminal complaint.
(b) A complainant has the option to, or not to, notify and seek assistance from law enforcement and/or Alamo Colleges District authorities.
(c) A complainant and the College District have the right to seek restraining, judicial no-contact and protective orders, internal no contact orders, and criminal trespass warnings to ensure personal safety and maintain a safe campus and work environment.
(d) A complainant has the right to have a prompt, fair, and impartial Civil Rights Complaint and Resolution Procedure that ensures a fair, prompt, and equitable process for both parties.
(e) A complainant has the right to present his or her case, including the right to an adequate, reliable, and impartial investigation of complaints, the right to an equal opportunity to present witnesses and other evidence, and the right to the same appeal

procedure for complainant and respondent.

(f) A complainant has the right to be treated with respect by College officials.

(g) A complainant has the right to take advantage of Alamo Colleges District support resources (such as College Counseling, College Health Services for students, or EAP services for employees).

(h) A complainant has the right for the complaint to be decided using a preponderance of the evidence standard (i.e., more likely than not the harassment other conduct occurred).

(i) A complainant has the right to have an adviser, attorney, or other advocate of the complainant's choice and at the complainant's cost present during the Civil Rights Appeal Procedure.

(j) A complainant has the right to refuse to have an allegation resolved through conflict resolution procedures.

(k) A complainant has the right to be considered for amnesty for minor student misconduct (such as alcohol or drug violations) that is ancillary to the incident.

(l) A complainant has the right to be free from retaliation for engaging in protected activity.

(m) A complainant has the right to have complaints heard in substantial accordance with the Civil Rights Complaint and Resolution Procedure and procedures and to participate in the process whether the injured party or the College District is the complainant.

(n) A complainant has the right to be informed in writing of the outcome/resolution of the complaint, sanctions where permissible, and the rationale for the outcome where permissible. A complainant has the right to challenge any finding, decision, determination, sanction, or action taken and the right for Student Code of Conduct procedures to be followed where applicable.

Statement of Respondent's Rights, Whether an Employee or Student

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A Respondent is the person against whom a complaint is lodged or made under this policy.

(o) A respondent has the right have a prompt, fair, and impartial Civil Rights Complaint and Resolution Procedure that ensures an equitable process to both parties.

(p) A respondent has the right to be advised of the complaint against him or her and to the same due process rights as the complainant.

(q) A respondent has the right to an adequate, reliable, and impartial investigation of complaints, the right to an equal opportunity to present witnesses and other evidence, and the right to the same appeal procedure as the complainant.

(r) (d) A respondent has the same right as a complainant to present his or her case, to present witnesses and other evidence, and to challenge the complaint made against

respondent.

(s) A respondent has the right for the complaint to be decided using a preponderance of the evidence standard (i.e., more likely than not the harassment other conduct occurred).

(t) A respondent has the right to have an adviser, attorney, or other advocate of the respondent's choice and at the respondent's cost present during the Civil Rights Appeal Procedure.

(u) A respondent has the right to be considered for amnesty for minor student misconduct(such as alcohol or drug violations) that is ancillary to the incident.

(v) A respondent has the right to have complaints heard in substantial accordance with the Civil Rights Complaint and Resolution Procedure and to participate in the process whether the injured party or the College District is the complainant. A respondent has the right to be treated with respect by College officials.

(w) A respondent has the right to take advantage of campus support resources (such as Counseling, College Health Services for students, or EAP services for employees).

(x) A respondent has the right to refuse to have an allegation resolved through conflict resolution procedures.

(y) A respondent has the right to have complaints heard in substantial accordance with the Civil Rights Complaint Resolution Procedure and to participate in the process whether the injured party or the College District is the complainant.

(z) A respondent has the right to be informed in writing of the outcome/resolution of the complaint, any sanctions imposed against the respondent, and the rationale for the outcome.

(aa) A respondent has the right to challenge any finding, decision, determination, sanction, or action taken against respondent and the right for Student Code of Conduct procedures to be followed where applicable.

Recognizing the Signs of Abusive Behavior and How to Avoid Potential Attacks

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Alamo Colleges District is committed to a safe and supportive learning and working environments for all students, staff, faculty, and visitors. We are dedicated to creating an environment that fosters safety for all by preventing and responding to incidents that are disruptive, threatening, abusive or violent.

The entire college community has a role in changing knowledge and attitudes and shares responsibility for recognizing and ending abusive behavior and its devastating impact. In order to accomplish this, the Alamo Colleges District adopted strategies to respond to violence and seeks to develop comprehensive, collaborative approaches to ultimately prevent the behaviors from happening. These strategies, administered by the Alamo Colleges District in partnership with community medical, mental health and social services, include:

- Identify and/or provide early options for individuals experiencing abuse or violence prior to the need for crisis intervention services.
- Identify and/or institute incentives, core competencies, and resources for health, mental health, and social service professionals to promote and sustain the prevention, identification, and intervention of abusive or violent behavior.
- Establish criteria and guidelines to ensure that all victims have access to comprehensive, culturally sensitive and victim centered services, including health care and social services.
- Identify and support effective recommendations for appropriate identification, intervention, and consequences for those who commit abusive or violent acts.

a. Recognizing Abusive Behavior

Abusive behavior can manifest in many forms and often escalates from threats and verbal abuse to violence. While physical injury is the most obvious danger, the emotional and psychological consequences of abuse are also severe. The abuse can include belittling or controlling behaviors that lead to feelings of self-loathing, helplessness, and desperation. The most telling sign of an unhealthy and abusive relationship is fear of the person committing the acts. To recognize the telltale signs and symptoms of emotional abuse and violent behaviors, the situation should be assessed for the following:

b. General warning signs of abuse

Persons who are being abused may:

- Seem afraid or anxious to please their partner;
- Go along with everything their partner says and does;
- Check in often with their partner to report where they are and what they're doing;
- Receive frequent, harassing phone calls from their partner;
- Talk about their partner's temper, jealousy, or possessiveness.

c. Warning signs of physical violence

Persons who are being physically abused may:

- Have frequent injuries, with the excuse of "accidents;"
- Frequently miss work, school, or social occasions, without explanation;
- Dress in clothing designed to hide bruises or scars (e.g. wearing long sleeves in the summer or sunglasses indoors).

d. Warning signs of isolation

Persons who are being isolated by their abuser may:

- Be restricted from seeing family and friends;
- Rarely go out in public without their partner;
- Have limited access to money, credit cards, or the car.

e. Psychological warning signs of abuse

Persons who are being abused may:

- Have very low self-esteem, even if they used to be confident;
- Show major personality changes (e.g. an outgoing person becomes withdrawn);
- Be depressed, anxious, or suicidal.

The Alamo Colleges District counselors are available for consultation, resources and referrals to medical and social services. Students and situations of concern may be reported to any college official named specifically or anonymously through the Strategies of Behavioral Intervention (SOBI) process or to the Ethics hotline at **1-844-302-0425.**

Safe and Positive Options for Bystanders

A bystander is someone who sees a situation but may or may not know what to do, may think others will act or may be afraid to do something. Intervening in abusive or potentially violent behavior first requires an ability to identify the warning signs and then consider whether the situation demands action. Before getting involved, the priority is to evaluate safe and positive ways to act to prevent or intervene. *If the situation is already violent or is escalating quickly, do not directly intervene. Call the police.*

Bystander intervention is a nonviolent one. Trying to "rescue" a victim or fight off an abuser can endanger the intervener as well as the victim. If choosing to get involved, evaluate the best way to intervene:

Distract – use an *indirect and non-confrontational way to intervene with a goal to prevent a situation from escalating*
Delegate - ask someone who knows the victim or abuser to intervene or alert someone in authority
Direct - subtly make your presence known, *keeping an eye on the situation* while communicating your concern through body language.

Annual bystander training on how to safely intervene in instances where there is risk of an incident or when one may be occurring is provided to students, faculty and staff. Contact the Title IX Coordinator for training opportunities.

Civil Rights Harassment/Discrimination and Sexual Violence Primary Prevention and Awareness

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The Alamo Colleges District Board of Trustees recognizes that prevention is a primary tool to help eliminate complaints of civil rights-based harassment, discrimination; and retaliation

conditions. Therefore, the Chancellor or designee shall take all necessary steps to prevent and eliminate sexual harassment including, but not limited to:

(bb) Publishing this policy and the related policy for all present and future employees and students;
(cc) Conducting prevention and awareness campaigns for faculty, staff, administrators and students;
(dd) Creating an information brochure;
(ee) Providing notice of the non-discrimination policy;
(ff) Providing clear grievance procedures;
(gg) Identifying the contact information for the Title IX Officer;
(hh) Demonstrating a prompt and effective response protocol;
(ii) Seeing that mandatory annual in-house training workshops on civil rights and sexual harassment, discrimination, and sexual violence are established and performed;
(jj) Publishing harassment prevention and response materials, where appropriate;
(kk) Supplementing, where appropriate, employee and student handbooks to include the College District policy and procedure on civil rights and sexual harassment, discrimination, and sexual violence.
(ll) Annually affirming the Alamo Colleges District commitment to a safe campus and workplace environment that is free of sexual and civil rights harassment, discrimination and sexual violence.