

Central Texas College District
Human Resources Management Policy No.221: Sexual Misconduct

Student Handbook Sexual Misconduct Policy

I. PURPOSE

CTCD is dedicated to creating an environment free from sexual misconduct in any form and providing a safe and reliable environment for reporting all acts in violation of the Title IX regulations. Title IX of the Education Amendments of 1972 is a Federal civil rights law that prohibits discrimination on the basis of sex in educational programs and activities that receive Federal funds.

II. SCOPE

This policy applies to all CTCD employees, students, contractors, volunteers and guests at all CTCD locations in the United States that occur while participating in or attempting to participate in a CTCD educational program or activity on or off campus. CTCD prohibits all forms of sexual misconduct. Such behavior violates the values of the institution and disrupts the living, learning, and working environment for students, faculty, staff, and visitors.

III. DEFINITIONS

- A. Actual Knowledge:** Notice of sexual misconduct or allegations of sexual misconduct to the Title IX Coordinator or any official of the College who has authority to institute corrective measures on behalf of the College.
- B. Complainant:** The individual who alleges to be the victim of conduct in violation of this policy.
- C. Consent:** An affirmative, unambiguous, voluntary and conscious decision by each involved participant engaging in a specific agreed-upon sexual activity. *Consent can never be implied.*

The consent has to be “ongoing” throughout the sexual contact and can be revoked at any time and for any reason. Consent to one form of sexual activity does not imply consent to other forms of sexual activity. Previous relationships or consent does not imply consent to future sexual acts. Consent is active, not passive and silence or the absence of resistance alone is not sufficient to be interpreted as consent. Consent can be given by words or actions, as long as those words or actions generate mutually understandable permission regarding the conditions of the sexual activity. Instances involving intoxication, lack of consciousness, or drug use of any of the involved participants renders consent null and void. Incapacity to provide effective consent

may also result from mental disability, intellectual disability, unconsciousness or sleep. A person giving consent must be of legal age (17 in the state of Texas), sound mind, and fully cognizant of their surroundings and the situation.

Examples of indicators that a person is incapacitated and does not have the ability to give proper consent include, but are not limited to:

- under the legal age limit;
- consumption of alcohol, medication or drugs;
- imbalanced or stumbling;
- slurred speech;
- lack of consciousness or inability to control bodily functions movements, or vomiting;
- low intellectual capacity.

D. Dating Violence: Violence (including but not limited to emotional, physical, sexual, and financial abuse or threat of abuse) between two people who are or have been in a social relationship of a romantic or intimate nature. The existence of such a relationship will depend on the length and type of the relationship and the frequency of interactions between the persons involved.

E. Domestic Violence: Violence between two people who are or have been in an intimate or romantic relationship, who share a child in common, or who live or have lived together as spouses or intimate partners. Violence against any person by that person's caretaker or guardian (such as abuse against an elderly, young, or disabled person) may also be considered domestic violence. Examples of domestic violence include but are not limited to physical, emotional, sexual, and financial abuse or threat of abuse.

F. Formal Complaint: A document filed by the complainant or signed by the Title IX Coordinator alleging sexual misconduct against a respondent and requesting that CTCD investigate the allegation of sexual misconduct under this policy.

G. Respondent: The individual who has been reported as the perpetrator of conduct that could constitute a violation of this policy.

H. Sexual Assault: Any physical sex acts perpetrated against an individual without consent, to include when a person is incapable of giving consent due to alcohol, drugs or disability. A number of acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, and sexual coercion. The following are general descriptions and legal definitions and violations may differ by jurisdiction:

- **Forcible Rape** – Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim, and includes rape and sexual assault, sexual misconduct, and sexual violence.
- **Fondling** – Intentional touching, no matter how slight, whether clothed or unclothed, of another person's private body parts (primarily genital area, groin,

inner thigh, buttock or breast) with any object or body part of the perpetrator, without consent and/or by force. It also includes forcing the victim to touch the intimate areas of the perpetrator or any contact in a sexual manner even if not involving contact of or by breasts, buttocks, groin, genitals, mouth or other orifice. The victim may also be incapable of giving consent due to age or temporary or permanent mental incapacity and includes sexual battery and sexual misconduct.

- **Incest (non-forcible)** – Unlawful sexual intercourse between persons who are related to each other within the degrees wherein such marriage is prohibited by law.
- **Statutory Rape** – Unlawful sexual intercourse with a person who is under the statutory age of consent. Seventeen is the legal age in the state of Texas. Campuses outside of Texas are to adhere to local jurisdiction requirements for age of consent.

I. Sexual Coercion: The use of manipulation, intimidation or threat to engage in sex with another person. Coercion transpires when sexual activity occurs devoid of legal and appropriate consent. Coercion may include behaviors that intimidate, isolate, manipulate, humiliate, coerce, frighten, blame or hurt someone.

J. Sexual Exploitation: A situation in which a person takes non-consensual or abusive sexual advantage of another person or violates the sexual privacy of another when consent is not present. This includes, but is not limited to, the following actions (including then they are done via electronic means, methods or devices):

- Sexual voyeurism or permitting others to witness or observe a person undressing, using the bathroom, or engaged in sexual or intimate activity without that person's consent;
- Taking pictures or video or audio recording of another person engaged in sexual or intimate activity, or in any 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);
- Prostitution or trafficking, to include recruiting, harboring, transporting, providing, or obtaining another person for the purpose of sexual exploitation;
- Administering alcohol or drugs (such as "date rape" drugs) to another person without his or her knowledge or consent regardless of whether prohibited sexual conduct actually occurs;
- Exposing one's genitals in non-consensual circumstances.

K. Sexual Harassment: Includes unwelcome sexual advances, requests for sexual favors, *quid pro quo* harassment, hostile environment based on gender, and other physical or verbal conduct of a sexual nature and is defined as:

- any instance of sexual assault, dating violence, domestic violence or stalking as defined in the Violence Against Women Act; and

- that is so severe and pervasive and objectively offensive to a reasonable person to effectively deny a person equal educational access.

L. Sexual Misconduct - Sexual misconduct as defined in this policy encompasses a range of behavior used to obtain sexual gratification against another's will or at the expense of another, and any other conduct of a sexual nature that is unprofessional and/or inappropriate for the educational and/or working environment, or has the effect of threatening or intimidating the person against whom such conduct is directed.

M. Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to (1) fear for his/her own safety or the safety of others and/or (2) suffer substantial emotional distress. *A course of conduct* means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.

IV. POLICY

CTCD prohibits discrimination and harassment on the basis of sex, gender identity, pregnancy, and parental status. CTCD also prohibits all forms of sexual misconduct, including but not limited to, sexual harassment, sexual assault, sexual exploitation, dating violence, domestic violence, sexual coercion, and stalking.

All interpersonal relationships and interactions – especially those of an intimate nature - must be grounded upon mutual respect, open communication, and clear consent. ***Sexual activity must be consensual; otherwise, it is sexual assault.***

A. Reporting and CTCD Response Process

1. The first priority of an individual who believes s/he is the victim of sexual assault/misconduct is to get to a place of safety and then obtain the necessary medical treatment. The individual should inform his/her health care provider that he/she is the victim of a sexual assault to ensure medical evidence is preserved. Victims should not wash, douche, change clothes, or use the restroom if possible prior to being examined by their health care provider or meeting with the Police.
2. CTCD Police Officers are trained in the proper handling of sexual assault/misconduct victims and associated medical evidence. Individuals reporting sexual assault/misconduct on the Central or Ft. Hood Campuses are encouraged to immediately contact CTCD Police or the Title IX Coordinator for assistance. Filing a report with CTCD will ensure:
 - Receipt of necessary medical treatment and forensic exam at no expense to the

victim;

- Protection of vital evidence;
 - Access to CTCD Student and Employee Assistance Program (“SEAP”) counselors, and referral to Victim Assistance Programs and trained sexual assault counselors.
3. CTCD Police along with CTCD SEAP counselors, Associate Deputy Chancellor, Human Resources Management, Dean, Student Success & Persistence or other appropriate personnel, will offer assistance to the victim in police reporting, obtaining counseling, and other necessary services.
 4. CTCD employees and contractors who have reason to know of or suspect sexual misconduct has occurred on a CTCD campus or sponsored event are **required** to promptly report all incidents related to sexual misconduct to any of the following:

Title IX Coordinator
Director, Risk Management
Nursing and Allied Health Building (155), Room B106E
(254) 501-3028 or (254) 526-1347
RDepartment@ctcd.edu

Campus Police Department
Police Department and Records Storage Building (137)
(254) 526-1427 or (254) 526-1200

Local Police Department (outside Central and Ft. Hood campuses)

Student and Employee Assistance Program/Substance Abuse
Resource Center (SEAP/SARC)
SEAP/SARC Building (158)
(254) 526-1166
ssarc@ctcd.edu

Dean, Student Success & Persistence Roy J. Smith Student
Center (106), Room 208
(254) 526-1293
julie.starkey@ctcd.edu

Associate Deputy Chancellor, Human Resource
Management
Nursing and Allied Health Building (155), Room C103
(254) 526-1128
holly.jordan@ctcd.edu

911

In all cases arising on any CTCD US campus, the Title IX Coordinator must be immediately informed. The Title IX Coordinator will advise CTCD Police, Human Resources and/or Student Life as warranted of the allegations.

5. CTCD students and all third parties who have reason to know of or suspect a sexual assault has occurred, are strongly encouraged to promptly report such incidents to any of the above individuals or agencies.
6. Employees receiving a report or complaint of violation of this policy are *required* to immediately report violations of this policy, to the CTCD Title IX Coordinator, and/or Human Resources department, The Title IX Coordinator will report violations of this policy to the CTCD Police as necessary.
7. Once a formal complaint of sexual misconduct in a CTCD program or activity has been made, the Human Resources, EEO Coordinator and/or Director of Student Life will engage in a prompt, fair, and impartial investigation. Upon notice of such an event at all other CTCD campuses, CTCD will cooperate fully with all investigations conducted by local or military base law enforcement and other appropriate agencies. The CTCD Police may also investigate as deemed necessary.
8. As warranted, the Director, Risk Management, CTCD Police Chief, Associate Deputy Chancellor, Human Resource Management, Dean, Student Success and Persistence, and/or Director of Student Life will call a Threat Assessment Team meeting as prescribed in CTCD Safety Policies & Procedure Manual, policy # 310.

B. Confidentiality

CTCD cannot guarantee confidentiality of any report of sexual misconduct and must investigate all such reports. If a victim chooses to make a disclosure to CTCD personnel, the victim will be informed in writing by the Title IX Coordinator to ensure informed expectations concerning privacy and confidentiality.

CTCD will however, treat all reports and information relating to a violation of this policy with the utmost sensitivity and protect the information to the extent possible while carrying out its duties to investigate, handle, and report to state and federal authorities such situations. Generally, information will only be reported to the appropriate CTCD personnel on a business need to know basis only. However, CTCD shall not prohibit the parties from discussing the allegations or gathering evidence.

Licensed health care providers, mental health counselors and pastoral counselors are, under many circumstances, required to keep a victim's information confidential unless permission is provided by the victim. Please check with your health care provider/counselor as to the confidential nature of your discussions with them. Expect that all other CTC employees have a duty to report any violation of this policy.

C. Retaliation

Any attempt to penalize or take adverse actions against an individual for reporting and/or participating in a complaint, investigation, legal and/or administrative proceedings, including litigation, regarding allegations of sexual misconduct, is strictly prohibited. Violation of this anti-retaliation provision may lead to discipline up to and including termination or expulsion from CTCD.

Bringing Student Code of conduct charges or charges based on violation of Human Resource policy for materially false statements by a party, witness or other participant during the course of a Title IX process under this policy, is not retaliation.

D. Victim Resources

The following list of possible resources is for reference only and is not intended or given as an endorsement of group or agency or the services provided. CTCD has no affiliation with any of the listed groups or agencies and each individual must evaluate the services of these groups and agencies for themselves. CTCD makes no representation as to the quality of services provided. This is not an exhaustive list of groups or agencies that may be helpful.

- Sexual Assault Legal Services & Assistance (SALSA), www.hopelaws.org
- National Domestic Violence Hotline, 1-800-799-7233
- Bell County Victim Services Division, www.bellcountytexas.com/county_government/district_attorney/victim_services_division.php, 254-933-5235
- Texas Association Against Sexual Assault, www.taasa.org, 512-474-7190 or Victim Assistance 888-343-4414
- Sexual Assault Counseling, Texas Health and Human Services, www.211texas.org, dial 211 (24-hour service)
- The Refuge Corporation, United Way of the Greater Fort Hood Area, 254- 547-6753
- Families in Crisis, 254-634-1184 or 1-888-799-SAFE (Crisis 24-hour hotline Texas Rape & Sexual Assault Resources, www.AARDVARC.org)
- Texas Abuse Hotline, Texas Department of Family & Protective Services, 1-800-252-5400 (24-hour hotline)

- Texas Legal Services Center, www.tlsc.org

E. Remedies and Discipline

No discipline related to Title IX situations shall be administered under this policy prior to a formal or informal complaint being filed.

Discipline imposed due to a final finding of misconduct under this policy will be in accordance with the Student Code of Conduct for students (See Student Handbook), and CTCD Human Resources policies for employees.

Students, employees, and all third parties violating this policy, including the failure to make a required report, could be subject to appropriate disciplinary action as determined by CTCD up to and including termination, expulsion, trespass from CTCD campuses, and/or referral to civil or criminal authorities as warranted for violations of state or federal laws.

If a formal complaint is not filed or the formal complaint does not constitute a true Title IX violation, after review by the Title IX Coordinator or at the conclusion of an investigation, CTCD will determine if there has been a violation of other CTCD policies and will take appropriate action in accordance with its established policies and procedures.