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After many years, the University now has an approved single policy for Unlawful Harassment and Unlawful Discrimination that applies to students, faculty and staff. This approved policy is the culmination of the effort of many people over many years. In the past there was a single policy for faculty and another separate policy for staff and students. We now have a unified policy that applies to all members of the campus community. This new policy has been approved by the Student Affairs Committee, Faculty Affairs Committe, Faculty Senate, Staff Affairs Committee, Staff Assembly Council, the President and Administration, and the Board of Trustees.

POLICY 311 - PREVENTION OF UNLAWFUL HARASSMENT AND DISCRIMINATION

STATEMENT

Santa Clara University is dedicated to:

- an uncompromising standard of academic excellence and an unwavering commitment to academic freedom, freedom of inquiry, and freedom of expression in the search for truth;
- being a community enriched by men and women of diverse backgrounds, respectful of difference and enlivened by open dialogue, caring and just towards others, and committed to broad participation in achieving the common good.

Unlawful harassment and unlawful discrimination subvert these University ideals. The University does not tolerate unlawful harassment or unlawful discrimination and will take prompt and effective corrective action including, where appropriate, disciplinary action up to and including dismissal or expulsion.

Any behavior constituting unlawful harassment or unlawful discrimination by any employee or student of the University, or by any other person engaged in a University activity, toward any employee or student of the University, or any other person engaged in a University activity, is prohibited. This prohibition applies to both: (1) behavior, whether on or off campus, in the course of any University administered class, program, job, or activity; and, (2) behavior in any other context, whether on or off campus, if at the time of the behavior the person engaging in the behavior knows that the other person is an employee or student of the University or a person engaged in a University activity.

NATURE OF PROHIBITED CONDUCT

Unlawful harassment and unlawful discrimination are defined and prohibited by federal and California law, as amended from time to time.

Unlawful harassment
Harassment is conduct that has the natural effect of demeaning, ridiculing, insulting, stigmatizing, frightening, intimidating, or impeding the work or movement of a person to whom the conduct is directed. The form of conduct may be verbal (either oral or written words or symbols), such as epithets, insults, and derogatory comments. The form of conduct may be physical, such as assault or battery, impeding or blocking movement, or any physical interference with normal work or movement. The form of conduct may be visual, such as derogatory posters, cartoons, or drawings.

Unlawful harassment is harassment that refers to or is based upon the protected status of the person or persons being harassed, including race, color, national origin, ancestry, sex, sexual orientation, age, religious creed, physical or mental disability, medical condition as defined by California law, marital status, citizenship status, or other status protected by law.

Unlawful harassment also includes sexual harassment. Sexual harassment includes any of the following conduct: explicit or implicit requests by one person for sexual favors from another person that condition employment, academic progress, or other University benefit upon the performance of those sexual favors; other unwelcome sexual advances, touching, or propositions; continual verbal expression about an individual's body; sexually degrading words used to describe an individual; the offensive display in the workplace or educational environment of sexual objects or pictures. Sexual harassment also includes other physical, verbal, or visual conduct based on gender when: (1) it has the natural effect of unreasonably interfering with an individual's work or academic performance, or creating an intimidating, hostile, offensive, or abusive environment; or (2) submission to the conduct is an explicit or implicit term or condition of employment, academic progress, or student activity and/or submission to or rejection of the conduct is used as the basis for an employment or academic decision.

Unlawful discrimination
Unlawful discrimination consists of some kinds of conduct that deny equal opportunities, privileges, or benefits to individuals based upon race, color, national origin, ancestry, sex, sexual orientation, age, religious creed, physical or mental disability, medical condition as defined by California law, marital status, citizenship status, or other status protected by law.

1. Adverse decisions regarding conditions of employment, including recruitment, hiring, placement, transfer, promotion, and termination, decisions regarding recruitment, retention, and participation in programs by students, and academic decisions are unlawful if based on the aforementioned characteristics or status.
2. Except to the extent permitted by law (for example, bona fide occupational qualifications) University administration of personnel policies, programs, and activities (such as compensation, promotion, termination, benefits, training, and recreational programs), and University administration of student-related policies, programs, and activities (such as admissions, extracurricular, and recreational programs or activities), are unlawful if based on the aforementioned characteristics or status.

Retaliation
Retaliation by the University, its employees, or its students, against any person who in good faith reports, complains of, files or pursues a complaint about, or requests assistance with respect to unlawful harassment or unlawful discrimination, or against any person who provides evidence as a witness in connection with a claim of unlawful harassment or unlawful discrimination, is prohibited and will be subject to appropriate disciplinary action by the University.

PROCEDURES RELATING TO COMPLAINTS OR REQUEST FOR ASSISTANCE

Application of procedures to faculty, staff, and students
The procedures specified in this policy apply to all faculty and staff. A member of the faculty or staff participating in a University class or other activity as a student shall nonetheless be considered a member of the faculty or staff, respectively, for purposes of applying this policy to conduct allegedly occurring in such class or other activity.

The Judicial Procedures applicable to enforcement of the Student Conduct Code apply to students, except that the procedures specified in this policy apply to the following cases involving students:

1. When a student alleges unlawful harassment or unlawful discrimination by a faculty member or staff member or a faculty member or staff member alleges unlawful harassment or unlawful discrimination by a student.
2. When a student alleges unlawful harassment or unlawful discrimination by another student if the student respondent is an employee of the University and the student complainant is not an employee of the University, unless the Director of Affirmative Action determines that it is more appropriate for the case to be resolved by Judicial Procedures applicable to enforcement of the Student Conduct Code.
3. When a student alleges unlawful harassment or unlawful discrimination by another student if both are employees of the University at the time of the alleged harassment or discrimination and the student complainant is subordinate in the employment