

MERCED COLLEGE

SEXUAL HARASSMENT

TRAINING FOR EMPLOYEES

*Building a Respectful, Safe,
and Inclusive Workplace*



RESPECT



INTEGRITY



EQUITY



EXCELLENCE



Everyone has the right to work and learn in an environment free from harassment.



See something.
Say something.
We all play a role.



Together, we create
a culture of respect
and belonging.

*Be Kind.
Be Respectful.
Be Merced College.*

Housekeeping

- Ensure you sign-in as this training will meet your training requirements for the next two years.
- If you do not sign-in, you will need to repeat this training.

Objectives

- Fulfill legal requirement for sexual harassment training prior to January 1, 2027 deadline
- Be informed about federal and state laws prohibiting sexual harassment
- Get guidance on how to prevent and correct sexual harassment
- Explore practical examples

Warm-up



Your Responsibility

Every employee shares responsibility for maintaining a respectful workplace. Preventing harassment is not solely an HR responsibility; it is part of our professional obligations to one another and to the students we serve.

Overview of Applicable Laws and Policies

California Fair Employment and Housing Act (FEHA)

Title VII (Employment discrimination)/Title 5

- BP/AP 3401, Nondiscrimination
- BP/AP 3420, EEO
- BP/AP 3430, Prohibition of Harassment
- AP 3435, Discrimination and Harassment Complaints and Investigations

Title IX (Sex-based discrimination in education)

- BP/AP 3433, Prohibition of Harassment under Title IX
- AP 3434, Responding to Harassment Based on Sex under Title IX

California Legal Framework

Employees are protected by:

- California Constitution
- California Government Code
- California Fair Employment and Housing Act (FEHA)
- California Code of Regulations
- California Community Colleges Title 5 Regulations
- District Policies and Administrative Procedures
- Federal civil rights laws

Merced College is committed to providing a workplace free from unlawful discrimination, harassment, retaliation, and abusive conduct.



FEHA Overview (law)

(FEHA is the law that prohibits discrimination and harassment in California. CRD is the agency that enforces FEHA and other civil rights laws.)

Broader than federal law — includes race, color, ancestry, national origin, religion (including dress/grooming), sex (including pregnancy, gender identity, gender expression), sexual orientation, age (40+), marital status, military/veteran status, medical conditions, genetic information, and more.

FEHA (cont.)

FEHA prohibits:

- Employment discrimination
- Harassment
- Retaliation
- Failure to reasonably accommodate disabilities or religious beliefs

Title VII Overview

Title VII of the Civil Rights Act of 1964

- Federal law prohibiting discrimination based on:
- Race
- Color
- Religion
- Sex
- National Origin

Also prohibits:

- Harassment
- Retaliation

Enforced by: Equal Employment Opportunity Commission (EEOC)

California employees are generally protected by both Title VII and FEHA.



What is Title IX?

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance.”

20 U.S.C. §1681 & 34 C.F.R. PART 106 (1972)

Distinguishing FEHA, Title VII, Title IX & Merced College Policies

**One incident may implicate more
than one law or policy.**

Law	Primary Focus
FEHA	California employment discrimination and harassment
Title VII	Federal employment discrimination
Title IX	Sex discrimination in education programs
AP 3435	District process for discrimination, harassment, and retaliation complaints

Outside Agencies for Filing Complaints

Agency	Students	Employees
OCR: Department of Education Office for Civil Rights	X	
CCCCO: California Community Colleges Chancellor's Office	X	X
CRD: Civil Right Department (was DFEH)		X
EEOC: Equal Employment Opportunity Commission		X

Harassment v. Discrimination v. Retaliation

Understanding the Differences

Harassment

Unwelcome conduct based on a protected characteristic

Discrimination

Employment decisions based on a protected characteristic

Retaliation

Adverse action because someone reported concerns or participated in a protected activity

Harassment v. Discrimination v. Retaliation

Offensive jokes

Unequal hiring or
promotion

Punishing
someone for
making a
complaint

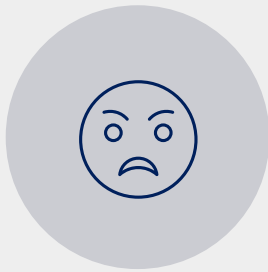
Derogatory
comments

Unequal discipline

Threats after
participating in an
investigation

These are distinct legal concepts and may occur separately or together.

Factors of Harassment/ Discrimination/ Retaliation



SEVERE



PERVASIVE



OBJECTIVELY
OFFENSIVE



BUSINESS
NECESSITY

Two Types of Unlawful Harassment

Quid Pro Quo ("This for That")

Occurs when:

- Employment benefits are conditioned on unwelcome conduct of a sexual nature.
- A supervisor or person with authority requests sexual favors in exchange for:
 - Hiring
 - Promotion
 - Better assignments
 - Raises
 - Avoiding discipline or termination

One incident may be sufficient to violate the law.

Hostile Work Environment

Occurs when unwelcome conduct based on a protected characteristic is:

- Severe **or**
- Pervasive

...such that it unreasonably interferes with an employee's work or creates an intimidating, hostile, or offensive work environment.

Examples:

- Repeated offensive jokes
- Slurs
- Sexual comments
- Displaying offensive images
- Intimidation or ridicule

Respecting Gender Diversity in the Workplace

California law prohibits harassment based on:

- Gender identity
- Gender expression
- Sexual orientation
- Sex (including pregnancy, childbirth, and related conditions)

Examples include:

- Intentional misuse of names or pronouns
- Derogatory comments
- Mocking someone's appearance or transition
- Excluding employees because they are LGBTQ+
- Offensive jokes or stereotypes

Everyone deserves dignity and respect.

Abusive Conduct

California requires harassment prevention training to address **abusive conduct**, even when it is **not based on a protected characteristic**. (AP 3050 – Code of Ethics, Professionalism, and Civility)

Abusive conduct may include:

- Repeated verbal abuse
- Insults or ridicule
- Humiliation
- Intimidation
- Sabotaging another person's work
- Threatening behavior

Abusive and unprofessional conduct is inconsistent with Merced College's values—even when it is not unlawful harassment.

Retaliation

Employees are protected when they:

- Report discrimination or harassment
- Participate in an investigation
- Serve as a witness
- Request a reasonable accommodation
- Oppose conduct they reasonably believe violates the law

Examples of retaliation:

- Unwarranted discipline
- Demotion
- Schedule changes
- Exclusion from opportunities
- Threats or intimidation

Good-faith reporting is protected—even if an investigation does not substantiate the complaint.

Bystander Intervention: Everyone Plays A Role

The "5 Ds"

Direct – Address the behavior if safe.

Distract – Interrupt or redirect the situation.

Delegate – Seek assistance from a supervisor or HR.

Delay – Check on the affected person afterward.

Document – Record facts when appropriate and consistent with District policy.



Your actions can help prevent inappropriate behavior from escalating.

Scenarios

Scenario #1

Promotion Decision

Scenario

Maria has worked at the college for eight years and consistently receives excellent evaluations. A promotional opportunity becomes available. During a discussion, a manager comments:

"We're looking for someone younger who can bring fresh energy to the department."

Maria is not selected.

Discussion Questions

- Is this harassment, discrimination, retaliation, or none of these?
- What facts would you want to know?
- Why might this statement create legal risk?

Scenario #1 Answer

- Discrimination (age), not harassment.

Scenario #2

Offensive Jokes

Scenario

Several employees regularly tell jokes about a coworker's national origin during lunch. They insist:

"We're just joking. Everyone knows we don't mean anything by it."

The coworker stops eating lunch in the break room.

Discussion Questions

- Is intent the determining factor?
- Could this become unlawful harassment?
- What should a coworker do if they observe this behavior?

Scenario #2 Answer

Potential harassment based on national origin.

Scenario #3

"Just Being Friendly"

Scenario

A coworker repeatedly comments on another employee's appearance:

"You look sexy today."

The employee politely asks them to stop.

The comments continue.

Discussion Questions

- Does this involve discrimination?
- Does it involve harassment?
- Why is the employee's response important?

Scenario #3 Answer

Likely sexual harassment.

Scenario #4

The Witness

Scenario

Sam agrees to serve as a witness during an internal harassment investigation.

Several weeks later, his supervisor says:

"People who get involved in investigations usually don't advance very far around here."

Discussion Questions

- Is Sam protected even though he wasn't the complainant?
- Could this be retaliation?
- Why?

Answer #4

Yes. Participation in an investigation is protected activity. This may constitute retaliation.

Scenario #5

During lunch, several employees repeatedly mock a coworker's accent. Others hear the comments but remain silent because they don't want to get involved.

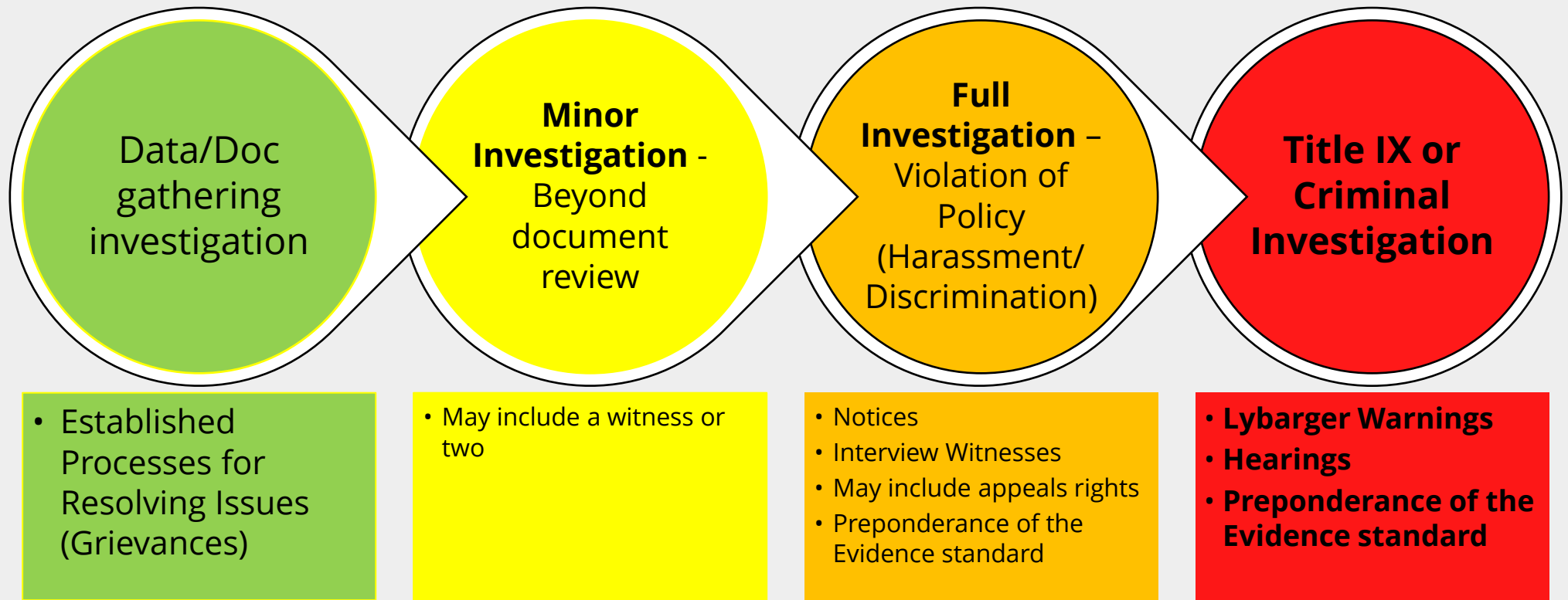
- Which of the 5 Ds could you use?
- Which intervention would be the safest and most effective?
- What role does silence play in shaping workplace culture?

Investigations

Workplace Investigations Types

- Misconduct
 - Violations of Board policy and/or CBA
- Discrimination, including harassment and retaliation
- Title IX
- *Criminal

Investigations by Severity



Formal vs. Informal Complaints

Formal

- Harassment/Discrimination/Retaliation
- Would constitute a violation of Policy, if proven true.
- Signed and dated
- Within 180 days or (1 year non-employment)

Informal

- Outside of 180 days
- May not be a violation*
- At HR's discretion to determine process/response

* May also be dismissed

Formal vs. Informal (continued)

AP 3435

If the Formal Complaint does not meet the requirements set forth above, the Chief Human Resources Officer will promptly return it to the Complainant and specify the defect. If the sole defect is that the Formal Complaint was filed outside the applicable prescribed timeline, the Chief Human Resources Officer or designee will handle the matter as an informal complaint.

Investigations by Timeline

Formal Complaints =
within 180 Days and

30 Day Appeal
Window



Role of HR

- Intake
- Notices to Parties
- Scheduling Interviews*
- Errors of Fact Correction
- Administrative Determination



Role of Investigator

- Neutral and impartial fact-finder
- Ensuring procedural fairness
- Confidentiality and privacy obligations



Evidentiary Standard

Preponderance of the Evidence

- 50%+1

Beyond a Reasonable Doubt

- Criminal Standard

Challenges

- Fear/reluctance to engage
- Breach of Confidentiality
- Cherry Picking Evidence
- Coercion/collusion
- Timeline(s)
- Strict adherence to process
- Timeline(s)
- Delays
- Pressures from the parties
- Politicizing Complaints

Questions?

