

**GUAM COMMUNITY COLLEGE
Board of Trustees**

SEXUAL HARASSMENT AND SEXUAL DISCRIMINATION PREVENTION

WHEREAS, Guam Community College is committed to maintaining a safe, comfortable and non-discriminatory learning and working environment for all members of the College community- students, employees, visitors, applicants, and third-party vendor; and

WHEREAS, sexual harassment, sexual assault, and fraternization are forms of sex discrimination that can undermine the foundation of trust and mutual respect that must prevail if the College is to fulfill its educational mission; and

WHEREAS, per Title VII of the Civil Rights Act of 1964, the College adopts the following definition of sexual harassment: “Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when submission to or rejection of this conduct explicitly or implicitly affects individual’s employment or educational environment, unreasonably interferes with an individual’s work or educational performance, or creates an intimidating, hostile, or offensive work or educational environment.” Sexual harassment occurs when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment or educational benefits or services.
2. Submission to or rejection of such conduct is used for the basis for employment or academic decisions affecting the individual’s welfare.
3. Such conduct has the purpose or effect of unreasonably interfering with an individual’s professional or academic performance or working environment.
4. Such conduct is sufficiently severe or pervasive as to alter the conditions of an individual’s employment or education or create an abuse working, learning environment; and

WHEREAS, Title IX prohibits all schools, colleges, and universities receiving federal funds from discrimination on the basis of sex; and

WHEREAS, the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) requires colleges to maintain and disclose information related to crime on college campuses, including sexual assault; and

WHEREAS, the Violence Against Women’s Reauthorization Act of 2013 (VAWA) amended the Clery Act to now require institutions to compile statistics for incidents of dating violence, domestic violence, sexual assault, and stalking and to include certain policies, procedures, and programs pertaining to these incidents in their Annual Security Reports; and

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WHEREAS, sexual assault is defined as any type of sexual contact or behavior that occurs without the explicit consent of the recipient, including sexual activities as forced sexual intercourse, forcible sodomy, child molestation, incest, fondling, and attempted rape. Sexual assault is a form of sexual harassment; and

WHEREAS, domestic violence is defined as a pattern of abusive behavior in any relationship that is used by one partner to gain or maintain power and control over another intimate partner. Domestic violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. This includes any behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound someone; and

WHEREAS, dating violence is defined as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim is dating violence. The existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship; and

WHEREAS, stalking is defined as a pattern of repeated and unwanted attention, harassment contact, or any other course of conduct directed at a specific person that would cause a reasonable person to fear; and

WHEREAS, fraternization at the College is defined as a situation in which an employee engages in an emotional, romantic, or sexual relationship with a student or an employee for whom he or she has a professional responsibility as a faculty, staff, or administrator; and

WHEREAS, the College complies with the Title VII of the Civil Rights Act of 1964, all local and federal laws (as amended), and all executive orders and other applicable regulations which protect its students, applicants, employees, visitors, and third-party vendors against sexual harassment, sexual assault and fraternization; and

WHEREAS, the College is fully committed to notifying proper law enforcement authorities, to the police, and to assisting victims in notifying law enforcement authorities should they choose to do so.

NOW, THEREFORE, BE IT RESOLVED, that the College hereby adopts zero tolerance toward sexual harassment, sexual assault and fraternization in any part of the College's programs, services, and activities. Zero tolerance means any proven sexual harassment, sexual assault or fraternization will result in immediate and appropriate action to stop such action and prevent its recurrence. No employee should engage in any romantic or sexual relationship with a student or employee for whom he or she has a professional responsibility as an instructor, advisor, evaluator, or supervisor. Disciplinary actions such as demotion, suspension, or dismissal will be

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imposed upon employees, students, or other members of the College community who violates this policy, in accordance with the Guam Community College adopted employee/student code of conduct and disciplinary procedures, personnel rules and regulations, guidelines contained in employee/student handbooks, the College catalogue, Board/Union collective bargaining agreements, local and federal laws, and other procedures established by the College for purposes of implementing this policy. Zero tolerance will apply to an employee who fails to report a witnessed (visual or verbal) incident of sexual harassment, sexual assault or fraternization; and

BE IT FURTHER RESOLVED, that no faculty, administrator, staff, applicant for employment, or student be subject to restraint or reprisal for action taken in good faith seeking advice concerning a sexual harassment matter, filing a complaint, or serving as a witness or a panel member in a sexual harassment complaint; and

BE IT FURTHER REOLVED, that a complainant whose allegations are found to be both false and brought with malicious intent will be subject to disciplinary action and/or charges in a separate case; and

BE IT FURTHER RESOLVED, that sexual harassment, sexual assault and fraternization may involve the behavior of a person of either sex against a person of the opposite or same sex. Prohibited acts that constitute sexual harassment may take a variety of forms. Examples of the kinds of conduct that may constitute sexual harassment include, but are not limited to:

1. Unwelcomed sexual propositions, invitations, solicitations and flirtations.
2. Threats or insinuations that a person's employment, wages, academic grace, promotional opportunities, classroom work or assignments or other conditions of employment or academic life may be adversely affected by not submitting to sexual advances.
3. Unwelcome verbal, written or digitally sent expressions of a sexual nature, including graphic sexual commentaries about a person's body, dress, appearance, or sexual activities; the unwelcome use of sexually degrading language, jokes or innuendos; unwelcome suggestive or insulting sounds or whistles; obscene phone calls, emails, text messages, or website publications.
4. Sexually suggestive objects, pictures, posters, videotapes, audio recordings or literature placed in the work or study area that may embarrass or offend individuals.
5. Unwelcome and inappropriate touching, petting, or pinching; obscene gestures.
6. Examples of sexual assault are sexual activities include, but limited to, forced sexual intercourse, forcible sodomy, incest, fondling, and attempted rape.

BE IT FURTHER RESOLVED, that this policy sets forth the framework for victim-centered procedural guidelines regarding issues of sexual harassment, sexual assault and fraternization; and

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BE IT FURTHER RESOLVED, that the College adheres to affirmative consent with regard to sexual activity. Affirmative consent is defined as an understandable exchange of affirmative words that indicate a willingness to participate in mutually agreed upon sexual activity. Consent must be informed, freely and actively given. It shall not be a valid excuse for the accused to allege belief that the complainant consented to sexual activity while the accused was intoxicated or reckless, or the accused to not have taken reasonable steps to ascertain whether the complainant affirmatively consented. It is the policy of the College that a person cannot render affirmative consent while asleep, unconscious, or incapacitated due to the influence of drugs (including medication) or alcohol, or due to inability to communicate because of a physical or mental condition. It is hereby the policy of the College to adopt the standard of preponderance of evidence with regard to elements of a sexual assault or harassment complaint; and

BE IT FURTHER RESOLVED, that any questions about Title IX of the Education Amendments of 1972, which states that, “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 education program or activity receiving federal financial assistance,” can be directed to the College Title IX Coordinator.

**Amended & Adopted: December 23, 2021
Resolution 18-2021**

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Resolution 1-2016**

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Resolution 38-2014**

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Resolution 33-2008**

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Resolution 46-94**