**Fair Treatment and Dispute Resolution**

1. **General Complaints, Concerns or Problems**

The Organization takes all employee complaints seriously. It is with that spirit and intent we address and respond to employee concerns. Policies are developed to encourage open communication; however, in any group of people there are differences of opinion regarding working conditions or other matters.

Any time you have a suggestion, problem, or complaint and feel comfortable doing so, discuss it with your manager, campus leadership, or your Director of Human Resources. You can expect to receive a prompt reply, and fair and courteous consideration. We believe that anyone having a complaint must have the opportunity to be heard and to have any discrepancy resolved without fear of unlawful retaliation or penalty. There will be no unlawful discrimination or unlawful retaliation against any employee for raising a complaint, problem, or concern.

**B. Discrimination and Harassment**

**POLICY**

**The Organization** is committed to providing a work environment that is healthy, safe, and free from all forms of unlawful discrimination and unlawful harassment. The Organization complies with all applicable federal, state and local anti-discrimination laws. It is our objective that all employees work together comfortably and productively.

Certain types of harassment are against the law and such misconduct will result in discipline up to and including termination. This policy extends to the unlawful harassment of any employee, applicant, intern (paid or unpaid), volunteer, or person providing services pursuant to a contract by any management personnel, supervisors, coworkers, vendors, independent contractors, and/or non-employees, including students. Unlawful harassment is prohibited, without limitation, on the Organization’s property, as well as Organization-sponsored events and trips.

Every employee should be aware of what unlawful harassment is, what steps to take if it occurs, and the law prohibiting retaliation for reporting unlawful harassment.

**DEFINITIONS**

**Sexual Harassment**

Sexual harassment includes, but is not limited to, making unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature. Such requests, advances, or other conduct constitute sexual harassment in any of the following situations:

* It is an employment condition – submission to such conduct is made a term or condition of employment.
* It is an employment consequence – submission to or rejection of such conduct is used as a basis for employment decisions affecting individuals.
* It is offensive job interference – such conduct has a purpose or effect of unreasonably or substantially interfering with an employee’s work performance or creating an intimidating, hostile, or offensive work environment.

Unlawful harassment can take many forms, including:

* Verbal conduct, such as slurs, epithets, or unwelcomed sexual invitations or comments.
* Visual conduct, such as derogatory posters, cartoons, drawings, screen savers, computer backgrounds, or gestures.
* Physical conduct, such as assault, blocking normal movement, unwelcomed intentional touching of any part of the body, or interference with work because of an employee’s sex or other protected characteristic.

In assessing behavior that may be considered harassment, the motivation of the person doing the behavior is not a consideration. What is at issue is if the behavior is welcomed, the effect of the behavior, and if it is in accord with Organization policy. “I was just kidding” or “nobody complained” are not acceptable defenses against a claim of harassment.

Sexual harassment applies to both sexes and may include misconduct by women toward men, men towards women, men towards men, and women towards women.

**Discrimination and Other Types of Unlawful Harassment**

In addition to sexual harassment, SJVCialso prohibits unlawful discrimination and unlawful harassment based on the following protected characteristics:

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| --- | --- |
| * Pregnancy | * Sexual orientation |
| * Childbirth | * Physical or mental disability |
| * Breastfeeding | * Medical condition |
| * Sex | * Genetic information |
| * Race | * Marital status |
| * Color | * Registered domestic partner status |
| * National origin or ancestry | * Age |
| * Religion/creed/religious dress/grooming practices | * Military/veteran status * Any other basis protected by federal, |
| * Gender/gender identity/gender expression | state, or other applicable law |

Unlawful harassment can take many forms, including:

* Verbal conduct, such as slurs, epithets, or unwelcomed comments.
* Visual conduct, such as derogatory posters, cartoons, drawings, screen savers, computer backgrounds, or gestures.
* Interference with work because of an employee’s protected characteristic.

Because it is impossible to know all people with whom we work well, and because each person has different life experiences and cultural influences, using one’s own personal standard of what is offensive or welcome is not an effective way to determine if a behavior is considered unlawful discrimination or harassment.

Unlawful harassment can exist in same-sex, same-race, same-religion, etc. If the behavior is unwelcome, offensive and/or prohibited by SJVCi, “same” is no excuse for behavior that is prohibited by the Organization.

Refer to the Sexual Harassment and Assault Prevention Handbook for Title IX sexual misconduct and harassment policies and procedures.

**COMPLAINT AND INVESTIGATION**

To initiate a formal complaint of unlawful discrimination and/or harassment by any management personnel, supervisors, coworkers, vendors, independent contractors, and/or non-employees, including students, please contact the Ember Employee Relations team at [**AskHR@embered.com**](mailto:AskHR@embered.com). Employees are advised that they do not need to make a complaint to their direct supervisor. Complaints may also be directed to the Director of Human Resources. The Organization encourages all employees to promptly report any incident of discrimination or harassment forbidden by this policy immediately, so that complaints can be quickly and fairly resolved.

Under the general supervision of the Vice President of Human Resources for Ember Education, the Organization designates Ember Education’s Director of Human Resources as Discrimination & Harassment Officer (“DHO”) who shall be responsible for managing employee discrimination and harassment complaints, or any complaints made against employees that have been referred to the DHO by a Title IX Investigator or Title IX Coordinator. This includes coordinating the investigations and ensuring the promotion of equal opportunities practices within SJVCi.

In an incident where a student is allegedly discriminated against or harassed by an employee, reports must be directed to the institution’s Title IX Coordinator, who will have order an investigation by a Title IX Investigator. The Title IX Coordinator shall have jurisdiction over the complaint until the conclusion of the investigation. Upon completion of the investigation of a complaint in which an employee is the respondent, the Title IX Coordinator will refer the matter to the DHO for review and possible disciplinary action. With the exception of any Title IX investigation procedures, employee-respondents may not avail themselves of any rights, privileges, or other provisions of the Sexual Assault and Harassment Prevention Policy or other similar document. If misconduct was found by a Title IX Investigator, employees who are respondents will be subject to discipline in accordance with the applicable provisions of the Employee Handbook, including this policy.

If a member of the Employee Relations team is named in the complaint or implicated by the allegations, the investigation may be referred to the Ember Legal Department.

The DHO is responsible for ensuring that the Organization complies with this policy and shall be responsible for notifying the senior leadership when discrimination or general harassment complaints are filed. The DHO monitors the timelines provided for in the complaint procedure, assists in counseling the complainants, and facilitates resolution of the issue.

Employee Relations also serves as the Employee Disability Coordinator. Employees with disabilities should notify Employee Relations, so that an interactive dialogue regarding disability and reasonable accommodation can be conducted, addressed and documented.

Managers made aware of an employee’s disability must notify Employee Relations.

To report an employee disability contact Employee Relations at [AskHR@embered.com](mailto:AskHR@embered.com).

When complaints are received, the Organization will conduct a timely, fair, impartial, and thorough investigation by Employee Relations, and/or by other qualified persons. The Organization may also take certain corrective measures while the investigation is pending. A complaint will be designated as confidential, to the extent possible, but the Organization cannot guarantee complete confidentiality. Investigations will be documented and tracked for reasonable progress and timely closures. The investigation will provide all parties appropriate due process and will reach reasonable conclusions based on the evidence collected. At the conclusion of the investigation, the Organization will take appropriate corrective action, including any disciplinary action, as described below.

**DISCIPLINE**

After the close of the investigation, and the alleged misconduct is substantiated, the Organization will take appropriate corrective action, up to and including immediate discharge, against any employee who engages in discrimination or harassment, unlawful retaliation, or threatens to retaliate against any person who files a complaint, or assists in the investigation of a complaint. Employees will be made aware when the investigation has concluded and, if misconduct was found, that the matter has been appropriately addressed.

**RESPONSIBILITIES OF MANAGEMENT, INCLUDING SUPERVISORS REGARDING COMPLAINTS**

It is the responsibility of management and supervisors to ensure that the work environment is free of discrimination and harassment and to take appropriate action to stop possible harassment once aware of it. Management personnel and supervisors are required to promptly report any knowledge of unlawful discrimination, harassment, retaliation, or other misconduct to Ember Education’s Employee Relations team at [**AskHR@embered.com**](mailto:AskHR@embered.com), so the Organization can resolve the claim internally. If a member of the Employee Relations team is the subject of the complaint, then management personnel and supervisors should contact Ember Legal.

“Knowledge” includes first party reports/complaints, third party reports/complaints, personal observations or anonymous reports/complaints.

Any management personnel or supervisor who fails to promptly report knowledge of unlawful discrimination, harassment, retaliation, or other misconduct will be subjected to discipline up to and including termination.

**RESPONSIBILITIES OF NON-SUPERVISORY EMPLOYEES**

Any employee who observes or becomes aware of potential unlawful discrimination, harassment, retaliation, or other misconduct should inform his or her, Employee Relations at [employee.relations@embered .com](mailto:employee.relations@embered%20.com), the Director of Human Resources, and/or their supervisor.

**POLICY IMPLEMENTATION**

In keeping with the Organization’s commitment to a discrimination/harassment-free work environment, we require everyone to abide by this policy. Any questions about this policy should be addressed to the Employee Relations team \.

**NO RETALIATION**

Unlawful retaliation against any employee who: (1) makes a complaint or raises a concern; (2) refers a matter for complaint or investigation; or (3) participates in the complaint or investigation, is prohibited.

However, this policy does not prohibit an adverse employment action or any other action that would have been taken regardless if an employee did any of the above.

If an employee believes that he or she has been retaliated, they may initiate a complaint by following the process in the “Complaint” section, above.

An employee who engages in unlawful retaliation will be subject to disciplinary action, up to and including termination.

**APPEAL PROCESS**

Either employee (complainant and/or respondent) may appeal the outcome of an investigation by submitting a written statement to the appropriate Appellate Officer, depending on institution of division: VP of Administration (San Joaquin Valley College) or College President (Carrington College), Chief Operations Officer (Santa Barbara Business College), or Chief Operating Officer (Ember Education). Time is of the essence for appeals concerning the outcome of an investigation, because the passage of time can compromise the ability to review events and obtain accurate and relevant information. Accordingly, employees must submit their written statement of appeal within ten (10) calendar days of receiving notification of the outcome of the investigation. Untimely appeals will not be considered, and the investigation results will be final. The grounds for an appeal are limited to: (1) the investigator demonstrated bias during the investigation; and (2) the discovery of new information that could not have been disclosed before the conclusion of the investigation and such new information, if known by the investigator, likely would have changed the outcome. The Appellate Officer may grant or deny the appeal, in whole or in part. If the Appellate Officer grants the appeal, either in whole or in part, then he or she may order any of the following: (1) send the matter back to the investigator with instructions; or (2) order a new investigation. The employee will receive written notification of the results of his/her appeal. All appeal decisions are final.