

**SIOUX FALLS SCHOOL BOARD**  
**Wednesday, May 6, 2026 4:00 PM**

**Carly Reiter**  
**President**

**Instructional Planning Center**  
**201 East 38<sup>th</sup> Street, Sioux Falls**

**Cory Clasemann**  
**Southeast Tech President**

This agenda may also be viewed on the District and Southeast Tech's website: [www.sf.k12.sd.us](http://www.sf.k12.sd.us) and [www.southeasttech.edu](http://www.southeasttech.edu)

## **AGENDA**

- I. Call to Order
- II. Pledge of Allegiance
- III. Good News
- IV. Approval of Minutes Held on April 1, 2026
- V. Persons Wishing to Address the School Board on Non-Agenda Items
- VI. Persons Wishing to Address the School Board on Agenda Items
- VII. Approval of Agenda - Updated 5/4/2026
- VIII. Conflicts of Interest
- IX. Approval of Consent Agenda
  - A. Approval of Bid Award
    1. Wells Fargo Homebuilding Lab Construction - Approval to enter into agreement with Van Buskirk
  - B. Authorizations and Ratifications
    1. Approval of Contracts
    2. Approval of Purchase Orders
    3. Approval of Disposal - Updated 5/4/2026
  - C. Approval of Consolidated Report of Trust and Agency Funds
  - D. Approval of Personnel Report
- X. Reports of the President
  - A. Academic Update: Early Childhood
  - B. Academic Update: Phlebotomy
- XI. Fiscal Year 2027 Budget
- XII. Second Reading Sioux Falls School District/STC Policies/Regulations
  - A. STC 535 – Equal Opportunity, Harassment and Nondiscrimination
- XIII. Review/Revise or Withdrawal Sioux Falls School District/STC Policies/Regulations
  - A. STC 105 – nondiscrimination/Equal Opportunity – Withdrawal
  - STC 706 – Harassment - Withdrawal
  - STC 910 – Harassment - Withdrawal
  - STC 914 – Student Sex/Gender Harassment, Discrimination, and Misconduct - Withdrawal
- XIV. Adjournment

**SIOUX FALLS SCHOOL BOARD**  
**Wednesday, May 6 4:00 p.m.**

**Nan Kelly**  
**President**

**Instructional Planning Center**  
**201 East 38<sup>th</sup> Street, Sioux Falls**

**Cory Clasemann**  
**Southeast Tech President**

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  - A. STC 105 – nondiscrimination/Equal Opportunity – Withdrawal
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  - C. STC 910 – Harassment - Withdrawal
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14. Adjournment

Next Meeting: June 3, 2026 4:00 pm

**BID TABULATION**

**Project:** Southeast Technical College House Construction Lab  
Sioux Falls, SD

**Owner:** Southeast Technical College

**Architect:** Architecture Incorporated

**Bid Date:** Tuesday, April 28, 2026

**Time:** 11:00 am CDT

**Location:** Hub Administrative Conference Room #230  
2001 North Career Avenue  
Sioux Falls, SD

BIDDER	BID SEC.	ADDENDUM			BASE BID AMOUNT	ALT. # 1 ADD CLASSROOM	TOTAL
		#1	#2	#3			
605 Companies							
APX Construction Group	10%	x	x	x	\$3,280,000	\$1,900,000	\$5,180,000
Gil Haugan Construction	10%	x	x	x	\$3,527,000	\$1,620,000	\$5,147,000
Great Place Construction	10%	x	x	x	\$3,651,000	\$1,578,700	\$5,229,700
Hoogendoorn Construction							\$0
Huff Construction	10%	x	x	x	\$4,078,000	\$1,900,000	\$5,978,000
Jans Corporation	10%	x	x	x	\$3,543,850	\$1,517,370	\$5,061,220
Lloyd Companies	10%	x	x	x	\$3,484,000	\$1,679,000	\$5,163,000
Peska Construction	10%	x	x	x	\$3,730,000	\$1,722,000	\$5,452,000
Puetz Construction							\$0
Reynolds CMS							\$0
Rice Companies	10%	x	x	x	\$3,795,000	\$1,565,000	\$5,360,000
Visions Construction Group Inc	10%	x	x	x	\$3,634,000	\$1,779,000	\$5,413,000
Sentry LTD	10%	x	x	x	\$3,781,876.82	\$1,682,031.44	\$5,463,908.26
Vanbuskirk	10%	x	x	x	\$3,275,000	\$1,500,000	\$4,775,000

**1. Approval of Contracts**

**Cory Claseman 367-7485**

Authorizing the President to enter into and execute contracts, for and on behalf of the Southeast Technical College, as follows:

Item	Contract Number	Contractor	Project	Cost
a.	STC26-005	Concourse Syllabus	Academic syllabus software 5-year agreement.	\$28,400.00

**2. Approval/Ratification of Purchase Orders**

**Christine Goldsmith 367-5692**

Authorizing the Business Manager to issue Purchase Order(s) requiring additional approval of the School Board as follows:

Item	PO No.	Vendor	Description	Total Cost
a.	S2604892	OPTO International Inc	New Counters, Fixtures, and Fitting Room for Bookstore Operations	\$85,046.28
b.	S2605052	Riverside Technologies Inc.	Faculty Tablets - HP Flip 8 G2I 16GB (6) Faculty Refresh – HP 4 16 Inch G2A (40)	\$60,128.00

**3. Disposal of School District Property**

**Christine Goldsmith 367-5692**

Authorizing the disposal of surplus property to sell at private sale, public auction, or sealed bids or to dispose of, in accordance with SDCL §6-13-1, as follows:

Item No.	Description	Location	Appraisers	Appraised Value	Property File No.
	Steel Ramp	STC	Erin Paradise Kevin Shotkoski Patricia Spicer	\$100	STC - 021



# Concourse Syllabus

**Client**

Southeast Technical College

**Contact**

Mr. Erik VanLaecken

CIO

[erik.vanlaecken@southeasttech.edu](mailto:erik.vanlaecken@southeasttech.edu)

(605) 367-4800

**Preparer**

Cameron Zimny

Vice President, Client Services

[cameron@intellidemia.com](mailto:cameron@intellidemia.com)

(248) 795-5228

April 02, 2026

Version 1

# Concourse License and Service Agreement

This agreement (“Agreement”) entered into on \_\_\_\_\_ between Intellidemia, Inc. (“Intellidemia”), with its principal place of business located at 244 Fifth Avenue, Suite J-290, New York, NY 10001 and Southeast Technical College (“Client”), with its principal place of business located at 2320 N. Career Avenue, Sioux Falls, SD 57107, and shall be effective as of Nov 1, 2025 (the “Effective Date”). Intellidemia and the Client are each a “Party” and referred to collectively herein as the “Parties.”

## RECITALS

WHEREAS, Intellidemia is engaged in the business of software application development, technical consulting, data processing, and software support and maintenance services; and

WHEREAS, the Client desires Intellidemia to host and maintain access to software applications in accordance with this Agreement; and

WHEREAS, the Client desires to retain Intellidemia to perform the Services set forth in this Agreement;

NOW THEREFORE, the Parties agree as follows:

## 1 Definitions

The capitalized terms in this Agreement shall have the following meanings:

### 1.1 “Project Manager”

Shall mean the person(s) authorized by the Client to manage elements of the project, procure Services, and provide authorizations.

### 1.2 “System”

Shall mean the syllabus information system developed by Intellidemia.

### 1.3 “Term”

Shall mean the period of time for which this Agreement is in effect.

### 1.4 “Work”

Shall mean the products, Services, and/or other materials to be delivered as agreed between the Parties.

## 2 The System Provided by Intellidemia

### 2.1 Overview

During the Term of this Agreement, Intellidemia agrees to provide the Client with access to its System for collecting and reporting on information related to the Client’s academic activities. Intellidemia will provide the Client with use of the System for authorized faculty, student, and staff members (the “Users”) within the Client community during the Term of this Agreement.

## **2.2 License Grant**

During the Term of this Agreement, and subject to the terms and conditions of this Agreement, Intellidemia grants the Client a limited, non-exclusive, non-transferable license to access and use the functionality of the System solely for its own internal purposes for the Users defined by Exhibit A: Pricing Schedule. Intellidemia recognizes that Client provided an approximation of the number of Users that Client expects to have during the Term of the Agreement and that the actual number of Users may vary. Factors including, but not limited to, recruitment, graduation, hiring, attrition, and policy changes may cause Client to exceed the User limitation during the Term of the Agreement. These events will not affect this Agreement unless accompanied by a material change in Client's use of the System as defined in the Pricing Schedule. With the exception of the access provided to Users as contemplated herein, Client shall have no right to grant licenses or sublicenses regarding access and use of the System and shall have no right to access or use the System for any purposes outside the scope of this Agreement.

## **2.3 Functionality to be Provided**

The System will provide for the online collection, organization, and analysis of course data from the System's Users. The Client acknowledges and agrees that it has been granted a license to use the System only in accordance with this Agreement. The Client further acknowledges that no functionality beyond what is currently available may be expected of the System.

## **2.4 Hosting**

During the Term of this Agreement, Intellidemia will provide hosted access to the System. Intellidemia may use a third-party vendor or vendors to provide such access to the System.

## **2.5 Upgrades**

Intellidemia may, in its sole discretion, introduce additional functionality to the System ("Upgrades"). To the extent Intellidemia has developed such Upgrades, Intellidemia may, but shall have no obligation to, freely provide the Client with such Upgrades. Upgrades defined in a Client Statement of Work ("SOW") will be applied in accordance with the terms and conditions of the SOW.

## **2.6 Maintenance**

Intellidemia may perform maintenance to address issues and vulnerabilities with the System. This includes, but is not limited to, bug fixes, performance improvements, and security patches. All maintenance will be provided to the Client at no additional cost and can be applied at any time.

# **3 The Services Offered by Intellidemia**

## **3.1 Overview**

During the Term of this Agreement, Intellidemia agrees to offer the Client Services ("Services"), including consulting, training, data administration, and development, to assist with the implementation

and use of the System.

### **3.2 Ordering**

The procurement of Services by the Client must be requested, in writing, by the Project Manager or a designee thereof. A best effort by Intellidemia will be made to quickly respond to Service requests within the resources and timing constraints of Intellidemia personnel.

### **3.3 Rate**

In consideration for Services performed by Intellidemia under this Agreement, the Client will pay Intellidemia in accordance with Exhibit A: Pricing Schedule.

## **4 Fees, Invoicing, and Payment**

### **4.1 Fees**

As consideration for the Client's access and use of the System during the Term, the Client shall pay to Intellidemia license fees in accordance with Exhibit A: Pricing Schedule. Further, as consideration for the Client's procurement of Services, the Client shall pay to Intellidemia Service fees in accordance with the Pricing Schedule.

### **4.2 Invoicing**

Intellidemia will provide the Client an invoice for the license at the onset of the Agreement and whenever Services are accrued or are to be prepaid.

### **4.3 Reporting**

Intellidemia shall maintain records of the time spent performing Services that are not delivered as part of a service package, itemizing in reasonable detail the dates on which Services were performed, the number of hours used, and a brief description of the Services rendered.

### **4.4 Expenses**

Service fees do not include, and Client will reimburse Intellidemia for, reasonable travel and out-of-pocket costs. Expenses will be billed separately and supported by receipts. Travel must be approved by Client before commencing.

### **4.5 Payment**

Payment is due thirty (30) days after the date of invoice. Intellidemia reserves the right to suspend System access and cease Work without prejudice if amounts are not paid when due. Overdue payments shall bear interest at a rate of two percent (2%) per month, or the highest rate permitted by law, from the date due until paid.

## **5 Term and Termination**

### **5.1 Term**

This Agreement shall commence as of the Effective Date and, unless otherwise terminated earlier pursuant to this Agreement, shall continue for a period of sixty (60) months (the "Term"). Should the Client wish to continue utilizing the System or Services after this date, a separate agreement will need to be devised and executed.

### **5.2 Termination**

This Agreement may be terminated in accordance with the following provisions:

#### **5.2.1 Failure to Pay**

Intellidemia may terminate this Agreement upon written notice to the Client if the Client fails to pay any amount due as required by this Agreement, and such failure continues for a period of thirty (30) days after written notice is given to the Client requesting it to cure such failure;

#### **5.2.2 Failure to Perform**

Either party may terminate this Agreement upon written notice to the other party if such other party fails to perform any of its material duties or obligations hereunder, and such failure continues for a period of thirty (30) days after written notice is given to such other party requesting it to cure such failure;

#### **5.2.3 Insolvency**

Either party may terminate this Agreement upon written notice to the other party if the other party: (1) commences or has commenced against it a proceeding under any bankruptcy, insolvency, debtor's relief law, or similar law; (2) has a receiver appointed for it or for any of its property; (3) becomes insolvent or unable to pay its debts as they mature or ceases to pay its debts as they mature in the ordinary course of business; or (4) makes a general assignment for the benefit of its creditors.

#### **5.2.4 Current Balances**

In the event of termination, the Client agrees to pay Intellidemia for all Work performed up through the date of termination.

### **5.3 Survival**

All terms and conditions of this Agreement that would, by their nature, survive the termination of this Agreement, shall so survive. Termination for breach will not affect the terminating party's right to exercise other remedies for breach.

## **6 Proprietary Rights for the Client Data and the System**

### **6.1 Ownership of Data**

All Client data collected by Intellidemia through the System is property of the Client, and cannot be disclosed, reused, sold, or disseminated in any way by Intellidemia without the express written consent of the Client. Further, Intellidemia shall safeguard these data as it would any proprietary confidential information belonging to Intellidemia.

### **6.2 Ownership of the System**

The System, including all software, Upgrades, patches, and customizations (collectively, “Proprietary Materials”) shall remain solely and exclusively Intellidemia’s. All Proprietary Materials arising from Work performed by Intellidemia will also be subject to exclusive ownership by Intellidemia. All applicable rights to patents, copyrights, trademarks, and trade secrets in Intellidemia’s Proprietary Materials are and shall remain with Intellidemia. Further, Intellidemia reserves the right to include such Proprietary Materials in future product releases and license such property without expectation of royalty by the Client. The Client shall not assert any right, title, or interest in Intellidemia’s Proprietary Materials, except for the license to use the System.

## **7 Confidential Information**

### **7.1 Disclosure**

Either party may disclose to the other party certain information that the disclosing party believes and expresses to the receiving party to be proprietary and confidential. The receiving party is willing, subject to the terms and conditions of this Agreement, to hold in confidence such proprietary and confidential information of the disclosing party, unless disclosure to another party is required by law. Any information disclosed and designated “Confidential” or “Proprietary” by the disclosing party at the time of disclosure shall be treated as such.

### **7.2 Expiration**

This confidentiality obligation covers confidential information disclosed during the Term of this Agreement, and expires three (3) years from the termination of this Agreement.

### **7.3 Transfers**

Neither party transfers any intellectual property rights to their proprietary information.

## **8 Obligations of the Client**

### **8.1 Overview**

The Client will allow Intellidemia reasonable access to the Client’s facilities and systems during the

performance of Intellidemia's Services. The Client will cooperate with Intellidemia and provide faculty, student, and staff information as is necessary to implement the System.

## **8.2 Usage Policies**

In order to use the System, Users must accept and comply with the Terms of Service and Privacy Policy set forth for the System. Users who do not wish to comply with these policies should not use the System.

## **8.3 Data Monitoring**

The Client and its Users are solely and exclusively responsible for all data, content, and information collected, processed, shared, or otherwise distributed by or through the System. Intellidemia has no obligation to monitor or filter such data, content, and information.

## **8.4 Notice of Defects**

The Client will promptly notify Intellidemia of any defects or malfunctions in the System or Work that it learns from its use of the System or related documentation.

# **9 Warranty**

## **9.1 Disclaimer**

Intellidemia warrants to Client that it has the authority to license the System and that Client's use of the System will not infringe the intellectual property rights of any third party. Intellidemia DOES NOT warrant that the System will meet Client's requirements, will operate error free, without interruption, and in combination with other software, and that defects are correctable.

## **9.2 Services**

Intellidemia warrants Work will be performed in a workmanlike manner, in conformity with prevailing industry standards, and consistent with developed specifications. Client must report any deficiencies to Intellidemia in writing within ninety (90) days of Client's receipt of the Work. Client's exclusive remedy for the breach of the above warranty will be the re-performance of the Work within a commercially reasonable time.

## **9.3 Limitation on Liability**

To the maximum extent permitted by applicable law, in no event shall Intellidemia be liable to Client, Client's Users or any other third party for any indirect, consequential, special, incidental, punitive, or exemplary damages arising out of this Agreement or Client's use of the System (including, but not limited to, damages for lost profits, loss of data, loss of privacy, loss of confidential information, business interruption, etc.). Intellidemia's cumulative liability, if any, to Client or any third party hereunder shall in no event exceed the total fees paid by Client under this Agreement in the last six (6) months.

## **10 Indemnification**

### **10.1 Intellidemia Indemnity**

Intellidemia indemnifies and holds Client harmless from and against any lawsuit, claim, damage, liability, or expense incurred by Client as a result of any third party claim against Client that its use of the System infringes any patent, copyright, trademark, or other intellectual property right of such third party.

## **11 General Provisions**

### **11.1 Relation of Parties**

The performance by Intellidemia of its duties and obligations under this Agreement will be that of an independent contractor, and nothing in this Agreement will create or imply an agency relationship between Intellidemia and the Client, nor will this Agreement be deemed to constitute a joint venture or partnership between the Parties.

### **11.2 No Third-Party Beneficiaries**

The terms and provisions of this Agreement are intended solely for the benefit of each party hereto and their respective successors and permitted assigns. It is not the intention of the parties to confer third-party beneficiary rights upon any other person.

### **11.3 Law**

The Parties agree that this Agreement will be governed by and construed and interpreted in accordance with the laws of the State of South Dakota.

### **11.4 Force Majeure**

Neither party shall be liable to the other party for any failure to perform any of its obligations under this Agreement during any period in which such performance is delayed by circumstances beyond its reasonable control including, but not limited to, fire, flood, war, terrorism, or the intervention of any governmental authority ("Force Majeure").

### **11.5 No Waiver**

The waiver by any party of any breach of covenant will not be construed to be a waiver of any succeeding breach or any other covenant. All waivers must be in writing, and signed by the party waiving its rights.

### **11.6 Electronic Signatures**

The parties agree that this Agreement may be executed by any party by electronic or facsimile signature.

## 12 Entire Agreement

This Agreement, together with Exhibit A: Pricing Schedule, constitutes the entire Agreement between the parties with respect to its subject matter, and supersedes all prior agreements, proposals, negotiations, representations or communications relating to the subject matter, whether written or oral. Both parties acknowledge that they have not been induced to enter into this Agreement by any representations or promises not specifically stated herein. This Agreement may be amended or modified only by written instrument executed by the authorized representatives of the Parties hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement by their duly authorized representatives.

**Southeast Technical College**

**Intellidemia, Inc.**

**Full Name:**

**Full Name:** Judd Rattner

**Title:**

**Title:** CEO

**Date:**

**Date:**

**Signature:**

**Signature:**

## EXHIBIT A: PRICING SCHEDULE

### 1 System Pricing

#### 1.1 License Schedule

Period	Start Date	End Date	Invoice Due	License	Discount	License Total
1	11/1/2025	11/1/2026	6/30/2026	\$8,500	-\$4,100	\$4,400
2	11/1/2026	11/1/2027	12/1/2026	\$8,500	-\$3,000	\$5,500
3	11/1/2027	11/1/2028	12/1/2027	\$8,500	-\$2,500	\$6,000
4	11/1/2028	11/1/2029	12/1/2028	\$8,500	-\$2,500	\$6,000
5	11/1/2029	11/1/2030	12/1/2029	\$8,500	-\$2,000	\$6,500
<b>5-Yr License Total</b>						<b>\$28,400</b>

#### 1.2 Discounts

The annual license fee is discounted as follows:

Period 1: \$4,100; Period 2: \$3,000; Period 3: \$2,500; Period 4: \$2,500; Period 5: \$2,000

#### 1.3 Edition

This agreement covers the full edition of Concourse.

#### 1.4 Limitations

The number of Users is not limited. The total number of courses is not limited.

#### 1.5 Integration

There will be no charge (\$0) for access to the integration service, Apidapter.

### 2 Service

#### 2.1 Rate

The fees associated with Services are invoiced according to the following schedule:

Service Type	Rate
Consulting	\$150 / hour
Training	\$100 / hour
Administration	\$200 / hour
Coordinated Development	\$150 / hour
Custom Development	\$300 / hour
Data Entry	\$50 / hour

## **2.2 Types**

Service types are defined as follows:

### **2.2.1 Consulting**

Consulting involves the exchange of advice for the successful implementation of the System.

### **2.2.2 Training**

Training covers the education of users and administrators on System functionality and processes.

### **2.2.3 Administration**

Administration refers to database-level modifications and manipulations that only Intellidemia can directly perform.

### **2.2.4 Coordinated Development**

Coordinated Development describes the addition of System functionality aligned with Intellidemia's product pipeline. For the avoidance of doubt, any additional System functionality shall be owned in its entirety by Intellidemia.

### **2.2.5 Custom Development**

Custom Development describes the addition of System functionality outside the Intellidemia product pipeline. This also includes integration hooks. For the avoidance of doubt, any additional System functionality shall be owned in its entirety by Intellidemia.

### **2.2.6 Data Entry**

Data Entry includes the manual entry of syllabus content, vitae, and other related artifacts.

## **2.3 Package**

The need for an additional service package during this contract's term is not expected.

### **2.3.1 Usage**

As needed, additional hourly Services can be procured in accordance with the Rate Schedule, Section 2.1. For all Services that are estimated to take four (4) or more hours, a dedicated Statement of Work ("SOW") must be drafted and agreed upon by both parties.

*(document continues to next page)*

### 3 Composite

	Period 1	Period 2	Period 3	Period 4	Period 5
<b>Concourse License</b>	\$8,500	\$8,500	\$8,500	\$8,500	\$8,500
<b>Discount</b>	-\$4,100	-\$3,000	-\$2,500	-\$2,500	-\$2,000
<b>License (Net)</b>	\$4,400	\$5,500	\$6,000	\$6,000	\$6,500
<b>Integration Fee</b>	\$0	\$0	\$0	\$0	\$0
<b>Service Package</b>	\$0	As Needed	As Needed	As Needed	As Needed
<b>TOTAL PER PERIOD</b>	<b>\$4,400</b>	<b>\$5,500</b>	<b>\$6,000</b>	<b>\$6,000</b>	<b>\$6,500</b>
<b>TOTAL FOR LENGTH OF AGREEMENT</b>					<b>\$28,400</b>

**Southeast Technical College:** \_\_\_\_\_  
(Please Initial)

**Intellidemia, Inc.:** \_\_\_\_\_  
(Please Initial)



**SIoux FALLS SCHOOL DISTRICT 49-5**

201 E. 38th ST  
 Sioux Falls, SD 57105-5898  
 Billing: sfsdaccounts payable@k12.sd.us  
 TAX EXEMPTION ID: 1018-1617-RS

**PURCHASE ORDER NO. S2604892**

NOTE: The PO number must appear on all invoices, packages & correspondence.

PAGE NO. 1

VENDOR  
 71300  
 OPTO INTERNATIONAL INC  
 1325 N MITTEL BLVD  
 WOOD DALE IL 60191

SHIP TO  
 SOUTHEAST TECH MICKELSON CTR  
 2320 N CAREER AVE  
 SIOUX FALLS, SD 57107  
 ATTN: JASON SKIFF  
 sfsdpurchaseorders@k12.sd.us

ORDER DATE: 04/15/26 BUYER: JASON SKIFF REQ. NO.: R2603307 REQ. DATE: 04/15/26

TERMS: NET 30 DAYS F.O.B.: DESC.:

ITEM	QUANTITY	UOM	DESCRIPTION	UNIT PRICE	EXTENSION
01	1.00		NEW COUNTERS, FIXTURES, AND FITTING ROOM FOR BOOKSTORE OPERATIONS	85046.2800	85,046.28

ITEM	ACCOUNT	AMOUNT	PROJECT CODE	PAGE TOTAL \$	85,046.28
	5233225894900 6910	85,046.28		<b>TOTAL \$</b>	<b>85,046.28</b>

BILLING QUESTIONS PLEASE CONTACT:  
 sfsdaccounts payable@k12.sd.us

VENDOR MUST SUPPLY RIGHT TO KNOW INFORMATION APPROPRIATE TO THIS ORDER FOR OSHA COMPLIANCE. SEPARATE INVOICES WITH PO # MUST BE SUBMITTED FOR EACH ORDER. THE SCHOOL BOARD WILL NOT BE LIABLE FOR GOODS FURNISHED WITHOUT THIS VALID PURCHASE ORDER SIGNED BY THE PURCHASING DIRECTOR.

*Mary Brack*

**APPROVED BY**

AUTHORIZED PURCHASER



**SIOUX FALLS SCHOOL DISTRICT 49-5**

201 E. 38th ST  
 Sioux Falls, SD 57105-5898  
 Billing: sfsdaccountspayable@k12.sd.us  
 TAX EXEMPTION ID: 1018-1617-RS

**PURCHASE ORDER NO. S2605052**

NOTE: The PO number must appear on all invoices, packages & correspondence.

PAGE NO. 1

VENDOR  
 dpollema@riversidetechnologies.com  
 54439 FAX: 866-812-5370  
 RIVERSIDE TECHNOLOGIES INC  
 212 N DERBY LANE  
 PO BOX 1547  
 N SIOUX CITY SD 57049

SHIP TO  
 SOUTHEAST TECH TECHNOLOGY CTR  
 2320 N CAREER AVE  
 SIOUX FALLS, SD 57107  
 ATTN:  
 sfsdpurchaseorders@k12.sd.us

ORDER DATE: 04/24/26	BUYER:	REQ. NO.: R2603420	REQ. DATE:
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TERMS: NET 30 DAYS	F.O.B.:	DESC.:
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ITEM	QUANTITY	UOM	DESCRIPTION	UNIT PRICE	EXTENSION
01	6.00		STC HP FLIP 8 G2I 16GB - FACULTY TABLET	1648.0000	9,888.00
02	40.00		STC HP 4 16 INCH G2A - FACULTY REFRESH	1256.0000	50,240.00

ITEM	ACCOUNT	AMOUNT	PROJECT CODE	PAGE TOTAL \$	60,128.00
				<b>TOTAL \$</b>	<b>60,128.00</b>

2333826604900	5470	60,128.00	
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BILLING QUESTIONS PLEASE CONTACT:  
 sfsdaccountspayable@k12.sd.us

VENDOR MUST SUPPLY RIGHT TO KNOW INFORMATION APPROPRIATE TO THIS ORDER FOR OSHA COMPLIANCE. SEPARATE INVOICES WITH PO # MUST BE SUBMITTED FOR EACH ORDER. THE SCHOOL BOARD WILL NOT BE LIABLE FOR GOODS FURNISHED WITHOUT THIS VALID PURCHASE ORDER SIGNED BY THE PURCHASING DIRECTOR.

**APPROVED BY** \_\_\_\_\_  
*Misty Braak*  
 AUTHORIZED PURCHASER

SOUTHEAST TECHNICAL COLLEGE  
 2320 N. Career Ave.  
 Sioux Falls, SD 57107

**CONSOLIDATED REPORT OF TRUST AND AGENCY FUNDS**

	Balance 7/1/2025	Received to date	Disbursed to date	Balance 3/31/2026
STC Bookstore	\$ 35,918.59	\$ 1,133.13	\$ -	\$ 37,051.72
STC EFT	\$ 173,026.18	\$ 12,363,135.71	\$ 7,376,173.12	\$ 5,159,988.77
STC Tuition & Fees	\$ 2,615,205.08	\$ 34,640,993.78	\$ 34,182,963.09	\$ 3,073,235.77
STC T & A	\$ 104,122.55	\$ 37,668.26	\$ 25,614.37	\$ 116,176.44
STC ACH	\$ 181,019.51	\$ 161,822.93	\$ -	\$ 342,842.44
STC Blue Bucks	\$ 41,201.71	\$ 11,331.48	\$ 3,626.03	\$ 48,907.16
<b>TOTALS</b>	<u><u>\$ 3,150,493.62</u></u>	<u><u>\$ 47,216,085.29</u></u>	<u><u>\$ 41,588,376.61</u></u>	<u><u>\$ 8,778,202.30</u></u>

SOUTHEAST TECH PERSONELL REPORT – Wednesday, May 6, 2026

1. **Resignations.** Accepting the resignation of School District Personnel as of the effective date indicated, the personnel having been previously employed by Board Action, as follows:

<b>Name</b>	<b>Location/Position</b>	<b>Effective Date</b>
<b>Employee, Full-Time, Hourly</b>		
Shaw, Andrew	Custodian	04-09-26

<b>Employee, Full-Time, Salaried</b>		
Oswald, Vicki	President’s Office	04-03-26

**2. Employment Recommendations**

<b>Name</b>	<b>Location/Position</b>	<b>Effective Date</b>	<b>Amount</b>
<b>Instructor, Adjunct, Hourly</b>			
Gile, Natalya	Nursing & Health	05-04-26	\$46.00
Odland, Kristin	Nursing & Health	05-04-26	\$46.00
<b>Student Help, Part-Time, Hourly</b>			
Zenobi, Edward	Engineering	04-13-26	\$20.00
Hert, Eva	Engineering	04-13-26	\$20.00
<b>Employee, Full-Time, Salaried</b>			
Ketcham, Claire	Nursing Instructor	05-04-26	\$10,912.58
186-Day, 1.0 FTE			
Level 5, Step 7			
30 days prorated			

**4. Employee Lump Sum Payment/Stipend**

<b>Name</b>	<b>Location/Position</b>	<b>Effective Date</b>	<b>Amount</b>
Schuetz, Amanda	Foundation	05-01-26	\$500.00
VanBriesen, Tonya	Finance	05-01-26	\$500.00
Beck, Kelly	Nursing & Health	05-01-26	\$500.00
Larson, Jim	Finance	05-01-26	\$500.00

# Early Childhood Academic Program Report

## Executive Summary

**Purpose of Report:** To inform the School Board about the academic program of the Early Childhood Program at Southeast Technical College.

---

The Early Childhood Specialist Program pursues excellence and focuses on student learning based on the development of children from prenatal through age 8.

Our educational experiences give students the opportunity to develop hands-on, critical thinking, and personal skills required to care for young children and their families. Students will learn practices that foster collaboration, age-appropriate curriculum, and developmentally appropriate teaching skills in a nurturing environment. Our early childhood courses are designed to provide real-life application and professional learning experiences to prepare students to be confident and competent early childhood professionals.

Program accomplishments, highlights, technical skills needed to obtain an industry position, student service opportunities, and data were shared.

---

**Administrative Recommendation to School Board:** Acknowledge the Early Childhood Program at Southeast Technical College report.



# Early Childhood (AAS)

Loretta K. Leloux

May 2026



**SOUTHEAST**  
Technical College

# FACULTY

## Full Time Faculty:

- Loretta Leloux

## Adjunct Instructors:

- Suzy Jones
- Melissa Atkins



*Serving at the Banquet West – March 2026*

## Mission Statement

*The Early Childhood Specialist Program pursues excellence. **Our educational experiences give students the opportunity to develop hands-on, critical thinking, and personal skills required to care for young children and their families.** Students will learn practices that foster collaboration, age-appropriate curriculum and developmentally appropriate teaching skills in a nurturing environment. Our early childhood courses are designed to provide real life applications and professional learning experiences to prepare students to be confident and competent early childhood professionals.*

# PROGRAM OUTCOMES

## Technology

- Explain the elements of **child development** based on the domains of early development with consideration to diverse and exceptional learners.
- Define and apply **developmentally appropriate practices (DAP)** for children to birth to age 8.
- Demonstrate **observational and assessment skills** through direct experiences.



Scarborough Center Photo Release

## Problem Solving

- Develop a **curriculum framework** by highlighting **relationship-based modeling** through lesson plan development, implementation, ability, and environmental considerations for early learners.

## Communication

- Define and explain **professional standards** for the field of early childhood, including the use of state regulations, accreditation **standards**, code of **ethical conduct**, and advocacy strategies.

## Professionalism

- Examine personal and professional characteristics to better **serve diverse children and families** with the ability to support and involve families in the child's development and learning.

# KEY CONCEPTS & TECHNICAL SKILLS

EARLY CHILDHOOD EDUCATORS ARE EXPECTED TO HAVE THE ABILITY TO:

Understand **child growth & development** and apply these concepts to care

Foster **meaningful learning environments** to support individual children's needs

Engage children in developmentally appropriate learning through **play-based curriculum**

Demonstrate supportive **classroom management** skills

Maintain a **safe, healthy, and nurturing** environment for children

**Communicate** effectively with children and families

**Problem-solve** situations in a quick approach

Maintain **professional, confidential, and ethical** behavior



Scarborough Center Photo Release

# KEY CONCEPTS & TOPICS

## Child Development Knowledge & Early Childhood Curriculum Development

- *6 credits in each content area*
- *Variety of projects and Implementation to practice skills*

## Direct Experiences with Children/Families

- *Practicum I & II (2<sup>nd</sup> and 4<sup>th</sup> semesters)*
- *On campus Lab Spaces*

## Professional Development & Community Involvement Opportunities

- *Siouxland AEYC Membership Meeting*
- *SF WOW Workshop*
- *Guest Speakers/Tours*



*Sioux Falls WOW Workshop – February 2026*

- *National Presenters “Two Pushy Danes” – 6 hours*
- *Student Showcase / Networking Opportunities*

# PROGRAM HIGHLIGHTS & ACCOMPLISHMENTS

- Became Build Dakota Program Fall 2026
- Received City of SF Scholarship Funding
- Started EC Leadership Certificate *(12 credits)*
  - *EC Practices & Standards*
  - *EC Administration & Supervision*
  - *Family Relations*
- Spring 2026 Graduates
  - *Lily & Amy*
    - *Purchased Homes (Sioux Falls & Dell Rapids)*
    - *Started Family Child Care Businesses*



# PROGRAM HIGHLIGHTS & ACCOMPLISHMENTS

## Early Childhood Student Organization (EChO)

- #ShelbyStrong Book Drive
- Assembled holiday stockings for Avera Behavioral Health
- Hosted the author of Loose Parts Books, Miriam Beloglovsky
- Tied blankets for Child's Voice

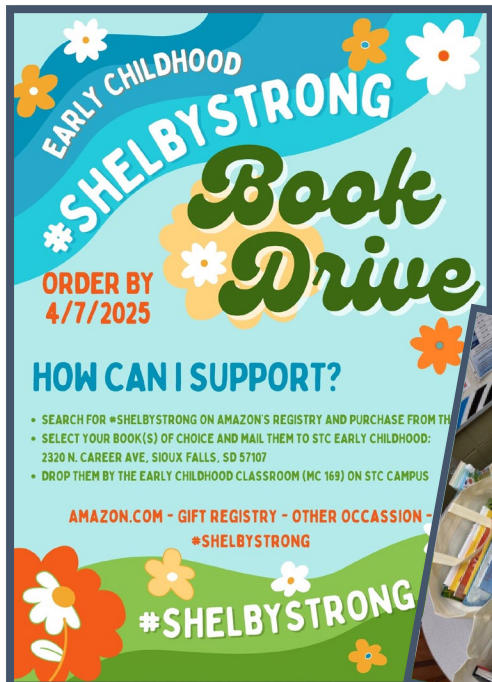


### STC EARLY CHILDHOOD PROGRAM & SCARBROUGH CENTER WELCOMED A NATIONAL AUTHOR TO CAMPUS!

Miriam Beloglovsky, a renowned Early Childhood Redleaf Author, shared her passion and testimony about her Loose Parts books with the EC community before presenting at the SFWOW conference on Saturday, February 1st. This was the 15th annual conference held at the Washington Pavilion, where over 350 early childhood educators gathered to learn about Miriam's educational philosophy, visit professional organizational booths, and network with other professionals in the field.

STC is a sponsor of this event! Graduating EC students engaged in leadership roles by presenting an "Educational Showcase" of projects and assisted with volunteer opportunities at the event.

### PREPARING FOR THE WORKFORCE



EARLY CHILDHOOD  
**SHELBYSTRONG**  
**Book Drive**  
ORDER BY  
4/7/2025

**HOW CAN I SUPPORT?**

- SEARCH FOR #SHELBYSTRONG ON AMAZON'S REGISTRY AND PURCHASE FROM THE REGISTRY
- SELECT YOUR BOOK(S) OF CHOICE AND MAIL THEM TO STC EARLY CHILDHOOD: 2320 N. CAREER AVE, SIOUX FALLS, SD 57107
- DROP THEM BY THE EARLY CHILDHOOD CLASSROOM (MC 169) ON STC CAMPUS

AMAZON.COM - GIFT REGISTRY - OTHER OCCASION -  
#SHELBYSTRONG

#SHELBYSTRONG



# PARTNERSHIPS

## Industry Practicum and Lab Sites

- Scarbrough Center at STC
- Child Care Centers & Family Child Care
- SFSD Early Childhood Program/Head Start
- Social Service Programs

## Office of Child Care Services

- Child Care Licensing
- Early Childhood Enrichment

## SD Association for the Education of Young Children



Scarbrough Center Photo Release

# PROGRAM DATA

Program Capacity for Incoming Cohort							36		
	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25	2025-26	
<b>Total Fall Enrollment</b>	35	37	40	33	30	45	40	56	
<b>New Students</b>	21	19	21	20	23	28	13	35	
<b>Returning Students</b>	14	18	19	13	7	16	22	21	
<b>Transfer Students</b>						1	5		
<b>Program Retention Rate</b>	72%	90%	76%	75%	55%	83%	82%	88%	
<i>SDBOTE Fall to Fall = Completion + Returning</i>									
<b># of Graduates</b>	8	8	15	10	6	16	19		
<i>Fall, Spring, Summer combined</i>									
<b>In-Field Placement Rate</b>	80%	89%	100%	82%	100%	100%			
<i>SDBOTE Prior Academic Year</i>									
						100% class of 2023-2024			
<b>Total Fall Enrollment Demographics</b>									
<b>Status</b>									
<b>Full Time</b>						38	36	49	
<b>Part Time</b>						7	4	7	
<b>Age</b>									
<b>18-23</b>						41	33	46	
<b>24+</b>						4	7	10	
<b>Gender</b>									
<b>Female</b>						45	40	56	
<b>Male</b>						0	0	0	
<b>Unknown/Other</b>									
<b>Outside SD</b>									
<b>Known Non-White</b>						11	7	9	
<b>First Generation</b>						17	13	6	



**SOUTHEAST**  
Technical College

**Southeast Technical College**  
**Academic Affairs Update**  
**Phlebotomy Technician Program**  
**Executive Summary**

**Purpose:** To inform the Sioux Falls School Board of the Phlebotomy Technician Program at Southeast Technical College.

---

The Southeast Technical College Phlebotomy Technician Certificate Program became a one semester certificate in the 2020-2021 academic year. This change created a shorter training option for students while also helping to meet the need for phlebotomy technicians in healthcare.

Students in the certificate program learn skills such as blood collection, specimen handling, infection control, patient communication, and safety procedures. The program includes classroom learning and hands-on practice to prepare students for an entry-level job in the healthcare setting including hospitals, clinics, and laboratories.

The one-semester program provides students with a quick path to the workforce which has also served as a starting point for students who are interested in other healthcare careers.

The program supports current workforce needs and provides students with training for jobs in the community.

---

**Administrative Recommendation to School Board:** To acknowledge the Phlebotomy Technician Program Report.



# Phlebotomy Technician

Chelsea Unzicker, Program Lead



**SOUTHEAST**  
Technical College

# MISSION AND OUTCOMES

- **Mission**

- The mission of the Phlebotomy Program at STC is to train students for full or part time employment as Phlebotomists. Phlebotomists draw blood from patients or donors in hospitals, blood banks or similar facilities for analysis or other medical purposes.

- **Outcomes**

- **Science and Technology:**

- Be able to operate and troubleshoot blood drawing devices

- **Problem Solving and Critical Thinking:**

- Recognize the importance of proper blood drawing. Deal with challenging patient situations when they arise.

- **Communication:**

- Effectively communicate with patients and staff members.

- **Professionalism:**

- Provide quality and professional service by demonstrating strong ethical and interpersonal skills.

# WHAT IS A PHLEBOTOMIST

- Phlebotomist is a healthcare professional that is trained to specifically draw blood from patients for medical testing
  - Link between patients and the laboratory
  - Work with all professionals in a healthcare setting
    - Nursing, Physicians, MLTs
  - May also perform waived testing (testing that is done with minimal chance of error)
    - Rapid strep testing
    - Covid, RSV, Influenza
    - Urinalysis
    - Sed Rates

# CORE RESPONSIBILITIES

- Drawing Blood: Knowing there are several techniques
  - Venipuncture and the different types of Venipunctures (butterfly, syringe, and routine)
  - Finger and heel sticks – typically performed on infants
  - Blood Cultures
- Patient Interaction: explaining procedures to patients, properly verifying patients, and talking with patients through anxiety
- Sample Management: making sure specimens are labeled properly and entering data into patient medical records to reduce errors
- Safety and Sanitation: maintaining sterile environment, using clean equipment and disposing properly

# PHLEBOTOMY TECHNICIAN PROGRAM

- One-semester, Certificate Program
  - Cash Pay - Not Financial Aid Eligible
  - 12 weeks of Didactic – 4 Credits
  - 12 weeks of Lab – 3 Credits
  - 4 weeks of Clinical – 3 Credits
    - 144 hours of clinical time
    - 100 successful and unaided venipunctures
- Obtain BLS certification in class
  - Eligible to apply for Certification exam through the **American Society for Clinical Pathology**
  - **AMT American Medical Technologist**
    - Certification and Licensure is not required in the state of SD but is recommended.
    - Pay increase once obtained



# EMPLOYMENT AFTER GRADUATION

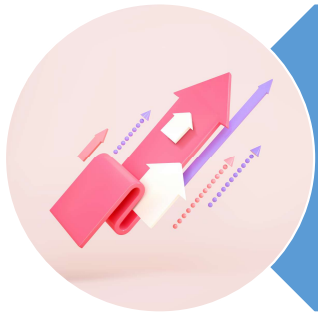
Clinics and Physician  
Offices

Hospitals

Blood Donation Services

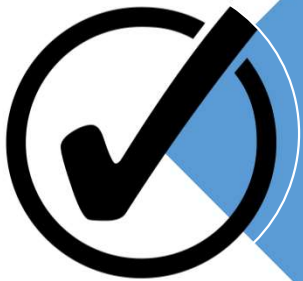
Mobile Phlebotomy  
Units  
(travel to patient homes  
or nursing homes)

# GOALS



Increase enrollment

UpSkill Program



Continue to encourage taking certification exam

Offering Online Option



Thank

You



## **Southeast Technical College**

Proposed FY27 Budget

### **EXECUTIVE SUMMARY**

#### **Purpose:**

Provide the School Board with a proposed version of the FY27 Southeast Technical College budget.

---

Highlights are as follows:

- Proposed budget of \$61M, including construction and remodeling facilities of approximately \$19M
- Overall increase to operating budget of 2.9% compared to prior year
- 3% raise for all faculty and staff (excludes adjuncts)
- State funded equipment grants one-time increase of approximately 60%

---

#### **Administrative Recommendation to School Board:**

To approve the proposed FY27 budget and schedule the public hearing for the finalized budget during the June 2026 meeting.

**STC - FY27 Proposed Budget**  
**Functional Classifications - Revenues & Expenses**

	<b>FY27 Budget Total</b>	<b>FY26 Budget Total</b>
<b>Revenues:</b>		
Tuition & Fees	\$ 17,308,526	\$ 16,397,735
State Funding	\$ 20,755,362	\$ 13,956,162
Federal Funding	\$ 7,285,626	\$ 3,128,157
Local Funding	\$ 9,039,385	\$ 412,446
Auxiliary Services	\$ 4,001,900	\$ 3,510,000
Other	\$ 603,000	\$ 523,000
Total Operating Revenues:	\$ 58,993,799	\$ 37,927,500
Pass Thru Funds (Facility Fee)	\$ 2,147,172	\$ 2,092,140
<b>Total Revenues:</b>	<b>\$ 61,140,971</b>	<b>\$ 40,019,640</b>
<b>Expenses</b>		
Instructional Services	\$ 20,143,894	\$ 17,654,086
Support Services	\$ 15,730,572	\$ 14,586,569
Facilities	\$ 23,119,333	\$ 5,686,845
Total Operating Expenses:	\$ 58,993,799	\$ 37,927,500
Pass Thru Funds (Facility Fee)	\$ 2,147,172	\$ 2,092,140
<b>Total Expenses:</b>	<b>\$ 61,140,971</b>	<b>\$ 40,019,640</b>

\*\*Overall Increase                      **2.9%**                      (excludes pass thru funds and new facilities)

## Changes and Assumptions Highlights – FY27 Budget Plans:

### Revenues:

#### Tuition & Fees:

- State Tuition per credit increase to \$134 & M&R per credit fee stable at \$8
- Credit sold & DE credits % remain stable from FY26 actuals
- Includes \$2.1M of pass-thru funds (Facility Fees) paid by students (\$36/credit)

#### Auxiliary Services:

- Sales increased 28% (Workforce Develop/Bookstore/Laptops/Childcare/Dining/Room Rentals)
  - Over \$800k of student subscription fees for medical programs thru Bookstore

#### State Funding:

- PSA formula increasing 1.4% at \$11.7M for credits sold (*BoTE FY27 worksheet*)
- Tuition Buydown (\$10/credit) stable and M&R Funding (set by State) increase to \$900k
- \$6M one-time funding for Abdnor building expansion project
- \$1.5M one-time funding for equipment for Jameson Annex - Diesel Program
- One Time Equipment Funding of \$1.3M –equipment and simulators for trades and medical

#### Other:

- Abdnor building expansion: \$4.5M HUD award and \$5M private donations
- Home Building Lab: \$2M donation from Wells Fargo
- \$300k prior M&R funds for deferred maintenance projects (chiller, fire alarm panels)

### Expenses:

#### Personnel

- 3% raise for all faculty and staff (excludes adjuncts), no step advances
- 5 FT faculty positions added (Diesel -Jameson Annex, Electrical, Civil Engineering, AgriBusiness, Automation), 5 Faculty positions lane advanced, 5 FT position added (Coordinator – Alumni, Coordinator – IT Applications, Coordinator – Testing Center, Coordinator – Institutional Research, Coordinator - Admissions)
- Assume medical and dental premiums increase by 5% maximum

#### Programs & Departments

- Digital subscriptions increased by 7% (J1, Navigate, Encoura, Go2Orientation, Learning Space, Team Dynamics, Symplicity, BetterMynd, etc)
- Resale inventory increased by 13%; program subscriptions passing thru Bookstore
- Accreditation prep and site visits for: MLT, Higher Learning Commission, Auto Collision
- New Cost Center setup to track strategic plan expenses

**Southeast Technical College - Proposed FY27 Budget  
Natural Classifications by Fund - Revenues & Expenses**

	(23) General Fund	(23) Pass Through	(52/53/54) Auxiliary	(23) Grants	(23) Plant Operations	(23) New/Expanded Facilities	FY27 Grand Total	Prior FY26 Grand Total
<b>Revenues:</b>								
Tuition & Fees	\$ 17,308,526	\$ 2,147,172	\$ 4,001,900	\$ 1,425,989	\$ -	\$ 6,000,000	\$ 19,455,698	\$ 18,861,875
Auxiliary Services	\$ 12,413,373	\$ -	\$ -	\$ 1,285,626	\$ 916,000	\$ 6,000,000	\$ 4,001,900	\$ 3,138,000
State Funding				\$ 2,039,385		\$ 7,000,000	\$ 20,755,362	\$ 13,956,162
Federal Funding							\$ 7,285,626	\$ 3,128,157
Local Funding							\$ 9,039,385	\$ 412,446
Other Sources	\$ 303,000	\$ -			\$ 300,000	\$ -	\$ 603,000	\$ 523,000
<b>Total Revenues:</b>	<b>\$ 30,024,899</b>	<b>\$ 2,147,172</b>	<b>\$ 4,001,900</b>	<b>\$ 4,751,000</b>	<b>\$ 1,216,000</b>	<b>\$ 19,000,000</b>	<b>\$ 61,140,971</b>	<b>\$ 40,019,640</b>
<b>Expenses:</b>								
Personnel & Benefits	\$ 21,146,745		\$ 1,199,620	\$ 1,374,562	\$ 1,308,368		\$ 25,029,295	\$ 23,161,569
Resale Inventory			\$ 2,465,000				\$ 2,465,000	\$ 2,184,500
Advertising	\$ 457,000		\$ 1,000				\$ 458,000	\$ 386,500
Dues, Fees, Subscriptions	\$ 895,330		\$ 13,350	\$ 14,500			\$ 923,180	\$ 860,230
Equipment	\$ 108,098	\$ -	\$ 35,000	\$ 3,229,361	\$ 96,000		\$ 3,468,459	\$ 2,154,580
Food	\$ 180,650		\$ 1,800	\$ 2,000	\$ 300		\$ 184,750	\$ 154,150
Fuel	\$ 500		\$ 10,500		\$ 20,000		\$ 31,000	\$ 31,000
Insurance	\$ -		\$ -		\$ 465,000		\$ 465,000	\$ 450,000
New/Expanded Buildings	\$ -					\$ 18,500,000	\$ 18,500,000	\$ -
Postage	\$ 159,350		\$ 21,000		\$ -		\$ 180,350	\$ 177,250
Printing	\$ 125,850		\$ 200	\$ 750	\$ 11,000		\$ 137,800	\$ 132,350
Professional Services	\$ 581,650		\$ 10,350	\$ 775	\$ 112,602	\$ 500,000	\$ 1,205,377	\$ 2,722,577
Rental/Lease	\$ 42,370		\$ -	\$ -	\$ 281,563		\$ 323,933	\$ 331,153
Repairs/Maintenance	\$ 371,990		\$ 21,000	\$ 1,550	\$ 942,000		\$ 1,336,540	\$ 871,555
Staff Development	\$ 65,000		\$ -	\$ 46,000	\$ 122,500		\$ 65,000	\$ 65,000
Supplies	\$ 1,472,825		\$ 197,800				\$ 1,839,125	\$ 1,788,379
Textbooks/Software	\$ 1,034,138		\$ -	\$ -			\$ 1,034,138	\$ 1,169,650
Travel & Registrations	\$ 267,981		\$ 9,000	\$ 6,502	\$ 760,000		\$ 283,483	\$ 194,257
Utilities			\$ -	\$ 75,000			\$ 760,000	\$ 727,800
Other Expenses	\$ 228,371	\$ 2,147,172	\$ 16,280	\$ -	\$ (2,903,333)		\$ 2,450,543	\$ 2,457,140
Transfers In/Out:	\$ 2,887,051	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Total Expenses:</b>	<b>\$ 30,024,899</b>	<b>\$ 2,147,172</b>	<b>\$ 4,001,900</b>	<b>\$ 4,751,000</b>	<b>\$ 1,216,000</b>	<b>\$ 19,000,000</b>	<b>\$ 61,140,971</b>	<b>\$ 40,019,640</b>

## **Policy/Regulation Revisions**

### **STC 535 – Equal Opportunity, Harassment, and Nondiscrimination**

#### **Executive Summary**

**Purpose:**

To bring to the School Board the above STC policies for second reading.

---

In an effort to keep the School Board Policy Books updated, members of the administration and the Southeast Technical College (STC) Review Committee will continually review the policies and regulations for items that need to be added, deleted, revised, or in some cases, to update the language.

The referenced policies/regulations have been reviewed by STC Administration and the STC Policy Review Committee. A new STC policy format has been implemented. Existing regulations, if applicable, have been positioned with the existing policies. Additional review included:

STC 535 – Equal Opportunity, Harassment, and Nondiscrimination

This policy has been posted for public review on the STC website. No comments have been received.

---

**Policy Review Recommendation to School Board:**

Approve second reading of STC 535.



## EQUAL OPPORTUNITY, HARASSMENT, AND NONDISCRIMINATION

Southeast Technical College Policy STC 503

### 1. Purpose

Southeast Technical College (STC) is committed to providing an educational and employment environment that is free from Discrimination based on Protected Characteristics, Harassment, and Retaliation for engaging in protected activity.

STC values and upholds the equal dignity of all members of its community and strives to balance the rights of the Parties in the resolution process during what is often a difficult time for all involved.

To ensure compliance with federal, state, and local civil rights laws and regulations, and to affirm its commitment to promoting the goals of fairness in all aspects of the education program or activity, STC has developed policies and procedures that provide a prompt, fair, and impartial resolution of allegations of Protected Characteristic Discrimination, Harassment, or Retaliation.

### 2. General Statement of Policy

The Policy applies to all Employees, Students, and other individuals participating in or attempting to participate in STC's Education Program or Activities, including education and employment.

The Policy prohibits all forms of Discrimination on the basis of the Protected Characteristic(s), and may be applied to incidents, to patterns, and/or to the institutional culture/climate, all of which may be addressed in accordance with the Policy.

## Notice of Nondiscrimination

STC seeks to comply with all federal, state, and local laws, regulations, and ordinances prohibiting Discrimination in public post-secondary education institutions.

STC does not discriminate against any Employee, applicant for employment, Student, or applicant for admission on the basis of:

- Age (40 years and over in the employment context)
- Citizenship status
- Color
- Creed
- Disability (physical or mental)
- Domestic violence victim status
- Ethnicity and ethnic characteristics
- Family responsibilities
- Gender identity/expression
- Genetic information (including family medical history)

BASED ON THE ATIXA 2021 ONE POLICY, TWO PROCEDURES (1P2P) MODEL.

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- Marital status
- National origin (including shared ancestry)
- Political belief or affiliation
- Pregnancy or related conditions
- Race
- Religion
- Residence
- Sex (including sex characteristics and sex stereotypes)
- Sexual orientation
- Source of income/social class status
- Veteran or military status (including disabled veteran, recently separated veteran, active-duty, wartime, or campaign badge veteran, and Armed Forces Service Medal veteran)
- Weight, hair style, or other similar aspect of appearance
- or any other Protected Characteristic under applicable federal, state, or local law, including protections for those opposing Discrimination or participating in any resolution process within the institution, with the Equal Employment Opportunity Commission, and/or other human/civil rights agency.

The Policy covers nondiscrimination in both employment and access to educational opportunities. Therefore, any member of the STC community whose acts deny, deprive, or limit the educational or employment, and/or social access, benefits, and/or opportunities of any member of STC community, guest, or visitor on the basis of that person's actual or perceived Protected Characteristic(s) listed above, is in violation of the Policy.

STC will promptly and effectively address any such Discrimination of which it has Notice using the applicable resolution process in the Procedures.

## Title IX Team Contacts

STC has appointed the Title IX Team, comprised of the following individual(s), to coordinate STC's compliance with federal, state, and local civil rights laws and ordinances:

***For Discrimination and Harassment allegations [not based on Sex or disability]:***

Title IX Coordinator/Compliance Officer  
 HSIM 219C  
 2320 N Career Ave  
 6053675681  
 TitleIXOffice@southeasttech.edu

Employees: For Discrimination and Harassment allegations (not based on Sex or disability):

Director of Human Resources  
Sullivan Health Center 200F  
2320 N Career Ave  
605-367-5743  
HR@southeasttech.edu

***For sex Discrimination and sex-based Harassment allegations:***

Title IX Coordinator/Compliance Officer  
HSIM 219C  
2320 N Career Ave  
6053675681  
TitleIXOffice@southeasttech.edu

***For disability-based allegations:***

Student Success Advisor and Accessibility Services Coordinator  
Mickelson Center 252C  
2320 North Career Avenue  
605-367-5835  
Access@southeasttech.edu

Collectively, these individuals are responsible for providing comprehensive nondiscrimination education and training; coordinating STC's timely, thorough, and fair response; investigation and resolution of all alleged prohibited conduct under the Policy; and monitoring the effectiveness of, and any barriers to, accessing the Policy and related procedures to ensure an education and employment environment free from Discrimination, Harassment, and Retaliation.

STC has determined that the following administrators are Officials with Authority (OWAs) to address and correct Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct. In addition to the Title IX Team members listed above, these OWAs may also accept Notice or Formal Complaints on behalf of STC.

- STC President
- VP of Academic Affairs
- VP of Enrollment Management and Student Affairs
- VP of Technology and Operations
- VP of Finance
- Director of Human Resources

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STC recognizes that allegations under the Policy may include multiple forms of Discrimination and Harassment as well as violations of other STC policies; may involve various combinations of Students, Employees, and other members of the STC community; and may require the simultaneous attention of multiple STC departments. Accordingly, all STC departments will share information, combine efforts, and otherwise collaborate, to the maximum extent permitted by law and consistent with other applicable STC policies, to provide uniform, consistent, efficient, and effective responses to alleged Discrimination, Harassment, or Retaliation.

## External Contact Information

Concerns about STC's application of the Policy and compliance with certain federal civil rights laws may be addressed to:

Office for Civil Rights (OCR)

U.S. Department of Education

400 Maryland Avenue, SW

Washington, D.C. 20202-1100

Customer Service Hotline: (800) 421-3481

Facsimile: (202) 453-6012

TDD: (877) 521-2172

Email: [OCR@ed.gov](mailto:OCR@ed.gov)

Web: <http://www.ed.gov/ocr>

Office for Civil Rights (OCR)

Kansas City Office

One Petticoat Lane, 1010 Walnut Street, Suite 320

Kansas City, MO, 64106

Email: [OCR.KansasCity@ed.gov](mailto:OCR.KansasCity@ed.gov)

For allegations of Employee-on-Employee misconduct, contact the [Equal Employment Opportunity Commission](#) (EEOC).

EEOC Regional Office

330 Second Avenue South, Suite 720

Minneapolis, MN, 55401

## Mandated Reporting and Confidential Resources

All STC Faculty and Employees (including Student-Employees), other than those deemed Confidential Employees, are Mandated Reporters and are expected to promptly report all known details of actual or suspected Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct to appropriate officials immediately, although there are some limited exceptions. Supportive measures may be offered as the result of such disclosures without formal STC action.

Complainants may want to carefully consider whether they share personally identifiable details with Mandated Reporters, as those details must be shared with the Compliance Officer/Title IX Coordinator.

If a Complainant expects formal action in response to their allegations, reporting to any Mandated Reporter can connect them with resources to report alleged crimes and/or Policy violations, and these Employees will immediately pass reports to the Compliance Officer/Title IX Coordinator (and/or police, if desired by the Complainant or required by law), who will act when an incident is reported to them.

The following sections describe the available reporting options for a Complainant or third party (including parents/guardians when appropriate):

### Confidential Resources

To enable Complainants to access support and resources without filing a Formal Complaint, STC has designated specific Employees as Confidential Resources. Those designated by STC as Confidential Resources are not required to report actual or suspected Discrimination, Harassment, Retaliation, or Other Prohibited Conduct in a way that identifies the Parties. They will, however, provide the Complainant with the Compliance Officer/Title IX Coordinator's contact information and offer options and resources without any obligation to inform an outside agency or STC official unless a Complainant has requested the information be shared.

If a Complainant would like the details of an incident to be kept confidential, the Complainant may speak with the following:

- On-campus licensed professional counselors and staff

Institutional counselors and/or the Employee Assistance Program are available to help free of charge and may be consulted on an emergency basis during normal business hours.

Failure of a Mandated Reporter, as described above, to report an incident of Discrimination, Harassment, Retaliation, or Other Prohibited Conduct of which they become aware is a violation of STC policy and can be subject to disciplinary action for failure to comply/failure to report. This also includes situations when a Respondent is a Mandated Reporter. Such individuals are obligated to report their own misconduct, and failure to do so is a chargeable offense under the Policy.

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A Mandated Reporter who is themselves a target of Discrimination, Harassment, Retaliation, or Other Prohibited Conduct under the Policy is not required to report their own experience, though they are encouraged to do so.

In addition, Complainants may speak with individuals unaffiliated with STC without concern that Policy will require them to disclose information to the institution without permission. Such individuals include:

- Licensed professional counselors and other medical providers
- Local rape crisis counselors
- Domestic Violence resources
- Local or state assistance agencies
- Clergy/Chaplains
- Attorneys

### Anonymous Notice to Mandated Reporters

At the request of a Complainant, a Mandated Reporter may give the Compliance Officer/Title IX Coordinator Notice without identifying the Complainant. The Mandated Reporter cannot remain anonymous themselves.

If a Complainant has requested that a Mandated Reporter maintain the Complainant's anonymity, the Mandated Reporter may do so unless it is reasonable to believe that a compelling threat to health or safety could exist. The Mandated Reporter can consult with the Compliance Officer/Title IX Coordinator on that assessment without revealing personally identifiable information.

Anonymous Notice will be investigated by STC to the extent possible, both to assess the underlying allegation(s) and to determine if supportive measures or remedies can be provided. However, anonymous Notice typically limits STC's ability to investigate, respond, and provide remedies, depending on what information is shared.

When a Complainant has made a request for anonymity, the Complainant's personally identifiable information may be withheld by a Mandated Reporter, but all other details must be shared with the Compliance Officer/Title IX Coordinator. Mandated reporters may not be able to maintain requests for anonymity for Complainants who are minors, elderly, and/or disabled, depending on state reporting of abuse requirements. Consult with the Compliance Officer/Title IX Coordinator in such situations.

### Disability-Based Complaints

Complaints related to disability status and/or provision of accommodations are addressed using the procedures in the Equal Opportunity, Harassment, and Nondiscrimination policy. However, allegations of Discrimination or Harassment on the basis of an actual or perceived disability, including instances in

which the provision of reasonable accommodations has a discriminatory effect, will be resolved under the procedures.

## Jurisdiction

The Policy applies to STC's Education Program and Activities, to conduct that takes place on property owned or controlled by STC, at STC-sponsored events, and in any building owned or controlled by a STC-recognized student organization.<sup>1</sup>

The Policy may also apply to the effects of off-campus misconduct that limit or deny a person's access to STC's Education Program or Activities. STC may also extend jurisdiction to off-campus and/or to online conduct when the conduct affects a substantial STC interest.

A substantial STC interest includes:

- 1) Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any federal, state, or local law.
- 2) Any situation in which it is determined that the Respondent poses an immediate threat to the physical health or safety of any Student, Employee, or other individual.
- 3) Any situation that significantly impinges upon the rights, property, or achievements of others, significantly breaches the peace, and/or causes social disorder.
- 4) Any situation that substantially interferes with STC's educational interests or mission.

For disciplinary action to be issued for Title IX Sexual Harassment under the Policy, the Respondent must be a STC Student or Employee at the time of the Formal Complaint. For allegations other than Title IX Sexual Harassment, STC may issue disciplinary action under the Policy if the Respondent was a STC Student, or Employee at the time of the alleged misconduct. If the Respondent is unknown or is not a member of the STC community, the Compliance Officer/Title IX Coordinator will offer to assist the Complainant in identifying appropriate institutional and local resources and support options and will implement appropriate supportive measures and/or remedial actions (e.g., trespassing a person from campus). STC can also assist in contacting local or institutional law enforcement if the individual would like to file a police report about criminal conduct.

All vendors serving STC through third-party contracts are subject to the policies and procedures of their employers and/or to these Policies and procedures to which their employer has agreed to be bound by their contracts.

When a party is participating in a dual enrollment program, STC will coordinate with the party's home institution to determine jurisdiction and coordinate providing supportive measures and responding to the Notice under the appropriate policy and procedures based on the allegations and identities of the Parties.

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<sup>1</sup> Education Program and Activity includes STC Employees' work environment.

When the Respondent is enrolled in or employed by another institution, the Compliance Officer/Title IX Coordinator can assist the Complainant in contacting the appropriate individual at that institution, as it may be possible to pursue action under that institution's policies.

Similarly, the Compliance Officer/Title IX Coordinator may be able to assist and support a Student or Employee Complainant who experiences Discrimination in an externship, study abroad program, or other environment external to STC where Sexual Harassment or nondiscrimination policies and procedures of the facilitating or host organization may give the Complainant recourse. If there are effects of that external conduct that impact a Student or Employee's education or employment environment, those effects can often be addressed remedially by the Compliance Officer/Title IX Coordinator if brought to their attention.

## Supportive Measures

STC will offer and implement appropriate and reasonable supportive measures to the Parties upon Notice of alleged Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate and as reasonably available. They are offered, without fee or charge to the Parties, to restore or preserve access to STC's Education Program or Activity, including measures designed to protect the safety of all Parties and/or STC's educational environment and/or to deter Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct.

The Compliance Officer/Title IX Coordinator promptly makes supportive measures available to the Parties upon receiving Notice or a Formal Complaint. At the time that supportive measures are offered, if a Formal Complaint has not been filed, STC will inform the Complainant, in writing, that they may file a Formal Complaint with STC either at that time or in the future. The Compliance Officer/Title IX Coordinator will work with a party to ensure that their wishes are considered with respect to any planned and implemented supportive measures.

STC will maintain the confidentiality of the supportive measures, provided that confidentiality does not impair STC's ability to provide those supportive measures. STC will act to ensure as minimal an academic/occupational impact on the Parties as possible. STC will implement measures in a way that does not unreasonably burden another party.

These actions may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Course and registration adjustments, such as retroactive withdrawals
- Education to the individual and/or the community
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys

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- Policy modification and/or training
- Provision of transportation assistance
- Implementation of long-term contact limitations between the Parties
- Implementation of adjustments to academic deadlines, course schedules, etc.
- Any other actions deemed appropriate by the Compliance Officer/Title IX Coordinator

Violations of no contact orders or other restrictions may be referred to appropriate Student or Employee conduct processes for enforcement or added as collateral misconduct allegations to an ongoing resolution process under the Policy.

## Online Harassment and Misconduct

STC policies are written and interpreted broadly to include online manifestations of any of the prohibited behaviors below, when those behaviors occur in or have an effect on STC's Education Program or Activities or when they involve the use of STC networks, technology, or equipment.

Although STC may not control websites, social media, and other venues through which harassing communications are made, when such communications are reported to STC, it will engage in a variety of means to address and mitigate the effects.

Members of the community are encouraged to be good digital citizens and to refrain from online misconduct, such as feeding anonymous gossip sites; sharing inappropriate content via social media; unwelcome sexual or Sex-based messaging; distributing, or threatening to distribute, nude or semi-nude photos or recordings; breaches of privacy; or otherwise using the ease of transmission and/or anonymity of the Internet or other technology to harm another member of STC community.

Nothing in the Policy is intended to infringe upon or limit a person's free speech rights. Any Student's online postings or other electronic communications, including technology-facilitated Bullying, Stalking, Harassment, etc., occurring completely outside of STC's control (e.g., not on STC networks, websites, or between STC email accounts) will only be subject to the Policy when such online conduct can be shown to cause (or will likely cause) a substantial in-program disruption or infringement on/harm to the rights of others. Otherwise, such communications are considered speech protected by the First Amendment. Supportive measures for Complainants will be provided.

Employees' off-campus harassing speech, whether online or in person, may be regulated by STC only when such speech is made in an Employee's official or work-related capacity.

## Inclusion Related to Gender Identity/Expression

STC strives to ensure that all individuals are safe, included, and respected in their education and employment environments, regardless of their gender identity or expression, including intersex, nonbinary, transgender, agender, two-spirit, and gender-diverse Students and Employees.

STC does not tolerate Discrimination and Harassment on the basis of gender identity or expression. If a member of the STC community believes they have been subjected to Discrimination or Harassment under the Policy, they should follow the appropriate reporting process described herein.

In upholding the principles of equity and inclusion, STC supports the full integration and healthy development of those who are gender diverse and seeks to eliminate any stigma related to gender identity and expression.

STC is committed to fostering a climate where all identities are valued, contributing to a more vibrant and diverse community. STC will administratively address issues some Students and Employees, including those identifying as intersex, nonbinary, transgender, agender, two-spirit, and gender diverse, may confront as they navigate systems originally designed around the assumption that gender is binary. As our society's understanding of gender evolves, so do STC's processes and policies.

Concepts like misgendering and deadnaming may not be familiar to all but understanding them is essential to STC's goal of being as welcoming and inclusive a community as possible.

Misgendering or mispronouncing is the intentional or unintentional use of pronouns or identifiers that are different from those used by an individual. Unintentional misgendering is usually resolved with an apology if someone clarifies their pronouns for you. Intentional misgendering is inconsistent with the type of community we hold ourselves out to be. We each have a right to determine our own gender identity and expression, but we don't get to choose or negate someone else's.

Deadnaming, along with misgendering, can be very traumatic to a person who is transgender, transitioning, nonbinary, or gender diverse. Deadnaming means using someone's birth-assigned (cisgender) name, rather than the name they have chosen.

To a person who is transgender, transitioning, nonbinary, or gender diverse, their cisgender identity may be something that is in their past — dead, buried, and behind them. To then revive their deadname could trigger stressors, traumas, and experiences of the past that the individual has moved past, or is moving past, and can interfere with their health and well-being.

Unintentional deadnaming can be addressed by an apology and an effort to use the person's name. Intentional deadnaming could be a form of bullying, outing, or otherwise harassing an individual, and thus should be avoided.

The Policy should be interpreted consistent with the goals of maximizing the inclusion of intersex, nonbinary, transgender, transitioning, agender, two spirit, and gender-diverse Students and Employees, including:

- Maintaining the privacy of all individuals consistent with law
- Ensuring all Students equal access to educational programming, activities, and facilities, including restrooms and locker rooms
- Ensuring all Employees equal access to employment opportunities and work, service, or health-related facilities

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- Providing professional development for Employees and education for Students on topics related to gender inclusion
- Encouraging all Students and Employees to respect the pronoun usage and identities of all STC community members

STC uses a number of interventions to address concerns that are raised related to gender-based Discrimination or Harassment, including problem-solving, intervention, confrontation, investigation, and Policy enforcement. When conflicts arise between the rights of members of the community to be free from gender-identity discrimination and those exercising their right to religious freedom, STC will try to balance rights and interests to find mutually agreeable outcomes or compromises. When that is not possible, STC will offer remedial solutions or enforce its Policies while also respecting the rights of all members of its community.

## Prohibited Conduct

Students and Employees are entitled to an education and employment environment that is free of Discrimination, Harassment, and Retaliation. The Policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane, but controversial or sensitive, subject matters protected by academic freedom.

The sections below describe the specific forms of legally prohibited Discrimination, Harassment, and Retaliation that are also prohibited under STC policy. When speech or conduct is protected by academic freedom and/or the First Amendment, it will not be considered a violation of STC policy, though supportive measures will be offered to those impacted

All offense definitions encompass actual and/or attempted offenses.

Any of the following offenses can be charged as or combined as pattern offenses, in which case the Notice of Investigation and Allegation (NOIA) will clearly indicate that both individual incidents and a pattern of conduct are being investigated. A pattern may exist and be charged when there is a potential substantial similarity between incidents where the proof of one could make it more likely that the other(s) occurred, and vice versa. Patterns may exist based on target selection, behavior similarity, or other factors. Where a pattern is found, it can be the basis to enhance sanctions accordingly.

Violation of any other STC policies may constitute Discrimination or Harassment when motivated by actual or perceived Protected Characteristic(s), and the result is a limitation or denial of Education or Employment access, benefits, or opportunities.

### Discrimination

Discrimination is different treatment with respect to a person's employment or participation in an Education Program or Activity based, in whole or in part, upon the person's actual or perceived Protected Characteristic(s). Discrimination also includes allegations of a failure to provide reasonable accommodations as required by law or policy, such as for disability, religion, or creed.

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Discrimination can take two primary forms:

1) **Disparate Treatment Discrimination:**

- Any intentional differential treatment of a person or persons that is based on a person's actual or perceived Protected Characteristic and that:
  - Excludes a person from participation in;
  - Denies the person benefits of; or
  - Otherwise adversely affects a term or condition of a person's participation in a STC program or activity.

2) **Disparate Impact Discrimination:**

- Disparate impact occurs when policies or practices that appear to be neutral unintentionally result in a disproportionate impact on a protected group or person that:
  - Excludes a person from participation in;
  - Denies the person benefits of; or
  - Otherwise adversely affects a term or condition of a person's participation in a STC program or activity.

### Discriminatory Harassment

- Unwelcome conduct on the basis of actual or perceived Protected Characteristic(s),
- based on the totality of the circumstances,
- that is subjectively and objectively offensive, and
- is so severe or pervasive,
- that it limits or denies a person's ability to participate in or benefit from STC's program or activity

### Sexual Harassment

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the State of South Dakota regard Sexual Harassment, a specific form of Discriminatory Harassment, as an unlawful discriminatory practice.

Acts of Sexual Harassment may be committed by any person upon any other person, regardless of the Sex, sexual orientation, and/or gender identity of those involved.

STC has adopted the following definitions of Sexual Harassment in order to address the unique environment of an academic community. Two definitions are required by federal law. While they overlap, they are not identical, and they each apply as noted.

1) **Title VII Sexual Harassment** applies to situations where an Employee is subjected to workplace Sexual Harassment.

- Unwelcome verbal, written, graphic, and/or physical conduct;
- that is severe or pervasive and objectively offensive;
- on the basis of Sex, that

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- unreasonably interferes with, limits, or effectively denies an individual’s educational or employment access, benefits, or opportunities.

**Title IX Sexual Harassment**, as an umbrella category, includes the offenses of Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, and Stalking. This definition applies to all Formal Complaints that fall within Title IX jurisdiction as determined by the Compliance Officer/Title IX Coordinator. Sexual Harassment includes:

Conduct on the basis of Sex, or that is sexual in nature, that satisfies one or more of the following:

- 1) **Quid Pro Quo:**
  - An Employee of STC,
  - conditions<sup>2</sup> the provision of an aid, benefit, or service of STC,
  - on an individual’s participation in unwelcome sexual conduct.
- 2) **Sexual Harassment (Hostile Environment):**
  - Unwelcome conduct,
  - determined by a Reasonable Person,
  - to be so severe, and
  - pervasive, and,
  - objectively offensive,
  - that it effectively denies a Complainant equal access to STC’s program or activity.<sup>3</sup>
- 3) **Sexual Assault:**
  - a. **Rape:**
    - Penetration, no matter how slight,
    - of the vagina or anus of a person,
    - with any body part or object, OR
    - Oral penetration
      - of a sex organ of the Complainant, or
      - by the Respondent’s sex organ,
    - without the consent of the Complainant,
    - including instances where the Complainant is incapable of giving consent because of their age or because of a temporary or permanent mental or physical incapacity.
  - b. **Fondling:**
    - The intentional touching of the clothed or unclothed private body parts (buttocks, groin, breasts) of the Complainant by the Respondent, or
    - the Respondent’s private body parts touching the Complainant, or
    - the Respondent causing the Complainant to touch the Respondent’s or their own clothed or unclothed private body parts (buttocks, groin, breasts),

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<sup>2</sup> Implicitly or explicitly.

<sup>3</sup> Unwelcomeness is subjective and determined by the Complainant (except when the Complainant is younger than the age of consent), though a Decision-maker may consider compelling evidence that rebuts an assertion of unwelcomeness. Severity, pervasiveness, and objective offensiveness are evaluated based on the totality of the circumstances from the perspective of a Reasonable Person in the same or similar circumstances (“in the shoes of the Complainant”), including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

- for the purpose of sexual gratification, sexual degradation, or sexual humiliation<sup>4</sup>
  - without the consent of the Complainant,
  - including instances where the Complainant is incapable of giving consent because of their age or because of a temporary or permanent mental or physical incapacity.
- c. **Incest:**
- Sexual intercourse,
  - between persons who are related to each other,
  - within the degrees wherein marriage is prohibited by South Dakota law.
- d. **Statutory Rape:**
- Sexual intercourse,
  - with a person who is under the statutory age of consent of 16 years old.
- 4) **Dating Violence:**
- Violence,<sup>5</sup>
  - on the basis of Sex,
  - committed by a Respondent,
  - who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.
    - The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition—
      - Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse
      - Dating Violence does not include acts covered under the definition of Domestic Violence
- 5) **Domestic Violence:**<sup>6</sup>

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<sup>4</sup> Contact with private body parts is considered to be done for the purpose of sexual gratification unless: (1) the contact can be proven inadvertent; (2) the contact is for a legitimate medical (or other privileged) purpose and thus is conduct for which consent should have been sought and obtained by the provider; (3) the contact involves a Respondent who is pre-sexual, based on maturity/age (thus their intent is not sexual); (4) the contact involves a Respondent who cannot developmentally understand sexual contact or that their contact is sexual; or (5) the contact is something like butt-slapping on a team and is both minimal and unlikely to have sexual motivation or purpose, as shown by the context of the act(s).

<sup>5</sup> For purposes of the Policy, violence includes situations where the Respondent intentionally or recklessly causes the Complainant physical, emotional, or psychological harm.

(1) Intent is evidenced when a Reasonable Person would be more likely to act with the purpose of causing serious harm rather than for any other reason.

(2) Recklessness is evidenced by a disregard of obvious risk to the safety of the Complainant.

(3) Legitimate use of violence for self-defense is not chargeable under the Policy because the purpose is safety, not harm. It may also be used as a defense if is not clear at the time of charging whether the use of violence was for self-defense or not. Self-defense is only to be considered if it is prompted by physical violence or the threat thereof.

(4) Consensual use of violence, such as in kink relationships, would also not meet this definition, in most circumstances.

(5) Threats to seriously harm the Complainant or people they care about may be chargeable under this definition if doing so causes serious emotional or psychological harm.

<sup>6</sup> To categorize an incident as Domestic Violence under the Policy, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

- Violence,<sup>7</sup>
  - on the basis of Sex,
  - committed by a Respondent who is a current or former spouse or intimate partner of the Complainant,
  - by a person with whom the Complainant shares a child in common, or
  - by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or
  - by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of South Dakota, or
  - by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of South Dakota.
- 6) **Stalking:**
- A Respondent engaging in a course of conduct,
  - on the basis of Sex,
  - directed at the Complainant, that
    - would cause a Reasonable Person to fear for the person's safety, or the safety of others; or
    - Suffer substantial emotional distress.

For the purposes of this definition—

- Course of conduct means two or more acts, including, but not limited to acts in which the Respondent 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
- Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling

## Sexual Misconduct

### 1) **Sexual Exploitation:**

- Any person taking non-consensual or abusive sexual advantage of another, that does not constitute Sexual Harassment as defined above,
- for their own benefit or for the benefit of anyone other than the person being exploited.

Examples of Sexual Exploitation include, but are not limited to:

- Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed)
- Electronically distributing (e.g., Airdropping, Snapchatting) nude or sexual photos or videos of another person without their consent

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<sup>7</sup> As defined in the footnote for Dating Violence.

- Invasion of sexual privacy (e.g., doxxing)
- Knowingly making an unwelcome disclosure of (or threatening to disclose) an individual's sexual orientation, gender identity, or gender expression
- Taking pictures, video, or audio recording of another person in a sexual act, or in any other sexually related activity when there is a reasonable expectation of privacy during the 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), including the making or posting of non-consensual pornography
- Prostituting another person
- Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually transmitted disease (STD) or infection (STI), without informing the other person of the virus, disease, or infection
- Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity
- Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections (e.g., spoofing)
- Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity
- Knowingly soliciting a minor for sexual activity
- Engaging in Sex trafficking
- Knowingly creating, possessing, or disseminating child sexual abuse images or recordings
- Creating or disseminating synthetic media, including images, videos, or audio representations of individuals doing or saying sexually related things that never happened, or placing identifiable real people in fictitious pornographic or nude situations without their consent (i.e., Deepfakes)

Other Prohibited Conduct (when motivated by the Complainant's protected characteristic(s)/status)

**1) Bullying:**

- Repeated and/or severe aggressive behavior
- that is likely to intimidate or intentionally hurt, control, or physically or mentally diminish the Complainant,
- that is not speech or conduct that is otherwise protected by the First Amendment.

**2) Endangerment:**

- Threatening or causing physical harm.
- extreme verbal, emotional, or psychological abuse; or

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- other conduct which threatens or endangers the health or safety of any person or damages their property.

### 3) Hazing:

- Any act or action
- which does or is likely to endanger the mental or physical health or safety of any person
- as it relates to a person's initiation, admission into, or affiliation with any STC group or organization.

For the purposes of this definition:

- It is not necessary that a person's initiation or continued membership is contingent upon participation in the activity, or that the activity was sanctioned or approved by the student group or student organization, for an allegation of Hazing to be upheld
- It shall not constitute an excuse or defense to a Hazing allegation that the participants took part voluntarily, gave consent to the conduct, voluntarily assumed the risks or hardship of the activity, or that no injury was suffered or sustained
- The actions of alumni, active, new, and/or prospective members of a student group or student organization may be considered Hazing

### 4) Retaliation

- STC or any member of the STC community,
- taking or attempting to take materially adverse action,
- by intimidating, threatening, coercing, harassing, or discriminating against any individual,
- for the purpose of interfering with any right or privilege secured by law or Policy, or
- because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the Policy and associated procedures.

The exercise of rights protected under the First Amendment does not constitute Retaliation. It is also not Retaliation for STC to pursue disciplinary action against those who make materially false statements in bad faith in the course of a resolution process under the Policy. However, the determination of responsibility, by itself, is not sufficient to conclude that any party has made a materially false statement in bad faith.

### 5) Failure to Comply/Process Interference

- Intentional failure to comply with the reasonable directives of the Compliance Officer/Title IX Coordinator in the performance of their official duties, including with the terms of a no contact order
- Intentional failure to comply with emergency removal or interim suspension terms
- Intentional failure to comply with sanctions
- Intentional failure to adhere to the terms of an Informal Resolution agreement
- Intentional failure to comply with mandated reporting duties as defined in the Policy
- Intentional interference with a resolution process, including, but not limited to:

BASED ON THE ATIXA 2021 ONE POLICY, TWO PROCEDURES (1P2P) MODEL.

- Destroying or concealing evidence
- Seeking or encouraging false testimony or providing false testimony or evidence
- Intimidating or bribing a witness or party

## Sanction Ranges

The following sanction ranges apply to Prohibited Conduct under the Policy. Sanctions can be assigned outside of the specified ranges based on aggravating or mitigating circumstances, or the Respondent's cumulative disciplinary record.

- **Discrimination:** reprimand/warning through expulsion or termination
- **Discriminatory Harassment:** reprimand/warning through expulsion or termination
- **Title VII Sexual Harassment:** reprimand/warning through expulsion or termination
- **Quid Pro Quo Harassment:** reprimand/warning through expulsion or termination
- **Sexual Harassment (Hostile Environment):** reprimand/warning through expulsion or termination
- **Rape:** suspension through expulsion or termination
- **Fondling:** reprimand/warning through suspension (termination for Employees).
- **Incest:** reprimand/warning through restrictions/probation
- **Statutory Rape:** reprimand/warning through suspension (termination for Employees)
- **Stalking:** restrictions/probation through expulsion or termination.
- **Dating/Domestic Violence:** restrictions/probation through expulsion or termination
- **Sexual Exploitation:** reprimand/warning through expulsion or termination.
- **Bullying:** reprimand/warning through expulsion or termination
- **Endangerment:** reprimand/warning through expulsion or termination
- **Hazing:** reprimand/warning through expulsion or termination
- **Retaliation:** reprimand/warning through expulsion or termination
- **Failure to Comply/Process Interference:** reprimand/warning through expulsion or termination

## Consent, Force, and Incapacitation

As used in the Policy, the following definitions and understandings apply:

### 1) Consent:

- knowing, and
- voluntary, and
- clear permission
- by word or action
- to engage in sexual activity.<sup>8</sup>

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<sup>8</sup> The state definition of consent is applicable to criminal prosecutions for sex offenses in South Dakota but may differ from the definition used by STC to address Policy violations.

Individuals may perceive and experience the same interaction in different ways. Therefore, it is the responsibility of each party to determine that the other has consented before engaging in the activity.

If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged.

For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual activity. Consent is evaluated from the perspective of what a Reasonable Person would conclude are mutually understandable words or actions. Reasonable reciprocation can be implied consent. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain their consent to being kissed back.

Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, that sexual activity should cease within a reasonably immediate time.

Silence or the absence of resistance alone should not be interpreted as consent. Although resistance is not required or necessary, it is a clear demonstration of non-consent.

Consent to some sexual contact (such as kissing or fondling) cannot be assumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent. If an individual expresses conditions on their willingness to consent (e.g., use of a condom) or limitations on the scope of their consent, those conditions and limitations must be respected. If a sexual partner shares the clear expectation for the use of a condom, or to avoid internal ejaculation, and those expectations are not honored, the failure to use a condom, removing a condom, or internal ejaculation can be considered acts of Sexual Assault.

Proof of consent or non-consent is not a burden placed on any party involved in a Formal Complaint. Instead, the burden remains on STC to determine whether its Policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a Reasonable Person in the same or similar circumstances, including the context in which the alleged misconduct occurred and any similar and previous patterns that may be evidenced.

Going beyond the boundaries of consent is prohibited. Thus, unless a sexual partner has consented to slapping, hitting, hair pulling, strangulation, or other physical roughness during otherwise consensual sexual activity, those acts may constitute Dating Violence or Sexual Assault.<sup>9</sup>

## **2) Force:**

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<sup>9</sup> Consent in relationships must also be considered in context. When Parties consent to BDSM (bondage, discipline, sadism, masochism) or other forms of kink, non-consent may be shown by the use of a safe word. Resistance, force, violence, or even saying “no” may be part of the kink and thus consensual.

Force is the use of physical violence and/or physical imposition to gain sexual access. Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced.

Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g., “Have sex with me or I’ll hit you,” which elicits the response, “Okay, don’t hit me. I’ll do what you want.”).

Coercion is unreasonable pressure for sexual activity. Coercive conduct, if sufficiently severe, can render a person’s consent ineffective, because it is not voluntary. When someone makes clear that they do not want to engage in sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive. Coercion is evaluated based on the frequency, intensity, isolation, and duration of the pressure involved.

### **3) Incapacitation:**

Incapacitation is a state where a person is incapable of giving consent. An incapacitated person cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where, why, and how” of their sexual interaction).

A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious for any reason, including as a result of alcohol or other drug consumption.

This Policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating substances.

Incapacitation is determined through consideration of all relevant indicators of a person’s state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.

If the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated, the Respondent is not in violation of the Policy. “Should have known” is an objective, Reasonable Person standard that assumes that a Reasonable Person is both sober and exercising sound judgment.

Unethical Relationships Policy (See [Appendix G](#))

## Standard of Evidence

STC uses the preponderance of the evidence standard of evidence when determining whether a Policy violation occurred. This means that STC will decide whether it is more likely than not, based upon the available information at the time of the decision, that the Respondent violated the Policy.

## Notice/Complaints of Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct

A report provides STC Notice of an allegation or concern about Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct and provides an opportunity for the Compliance Officer/Title IX Coordinator to provide information, resources, and supportive measures. A Formal Complaint informs STC that the Complainant would like to initiate an investigation or other appropriate resolution procedures. A Complainant or individual may initially make a report and may decide at a later time to make a Formal Complaint. Reports or Formal Complaints of Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct may be made using any of the following options:

- 1) File a report or Formal Complaint with, or give verbal Notice to, the Compliance Officer/Title IX Coordinator or to any member of the Title IX Team. Such a report or Formal Complaint may be made at any time (including during non-business hours) by using the telephone number or email address, or by mail, to the office of the Compliance Officer/Title IX Coordinator or any other Title IX Team member listed in the Policy.
- 2) Report online at [Report an Issue or Concern](#). Anonymous reports are accepted but the report may give rise to a need to try to determine the Parties' identities. Anonymous reports typically limit STC's ability to investigate, respond, and provide remedies, depending upon what information is shared. Measures intended to protect the community or redress or mitigate harm may be enacted. It also may not be possible to provide supportive measures to Complainants who are the subject of anonymous reports.

As used in the Policy, the term "Formal Complaint" means a document or electronic submission (such as by electronic mail or through an online portal provided by STC for this purpose) that contains the Complainant's physical or digital signature or otherwise indicates that the Complainant is the person filing the complaint, and requests that STC investigate the allegations. If Notice is submitted in a format that does not meet this standard, the Compliance Officer/Title IX Coordinator will contact the Complainant to determine whether the Complainant is requesting that STC initiate an investigation or other appropriate resolution procedures.<sup>10</sup>

Reporting carries no obligation to file a Formal Complaint, and in most situations, STC is able to respect a Complainant's request to not initiate an investigation or other appropriate resolution procedures. However, there may be circumstances, such as pattern behavior, allegations of severe misconduct, or a compelling threat to health and/or safety, where STC may need to initiate an investigation or other

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<sup>10</sup> As required by federal law, STC may not initiate a grievance process for allegations of Title IX Sexual Harassment without a Formal Complaint. For all other allegations of prohibited conduct under the Policy, a Formal Complaint is not required, and the STC may initiate its grievance process upon Notice of the alleged misconduct. Notice can be substituted in place of references to a Formal Complaint for allegations other than Title IX Sexual Harassment throughout the Policy.

appropriate resolution procedures. If a Complainant does not wish to file a Formal Complaint, STC will maintain the privacy of information to the extent possible. The Complainant should not fear a loss of privacy by submitting a report that allows STC to discuss and/or provide supportive measures, in most circumstances.

## Time Limits on Reporting

There is no time limitation on providing Notice/Formal Complaints to the Compliance Officer/Title IX Coordinator. However, if the Respondent is no longer subject to STC's jurisdiction and/or significant time has passed, the ability to investigate, respond, and/or provide remedies may be more limited or impossible.

Acting on Notice/Formal Complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of Policy) is at the Compliance Officer/Title IX Coordinator's discretion; they may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

## False Allegations and Evidence

Deliberately false and/or malicious accusations under the Policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a Policy violation determination. False allegations may be a form of Harassment or Retaliation or may fall within other STC policies.

Witnesses and Parties who knowingly provide false evidence, tamper with or destroy evidence, or deliberately mislead an official conducting an investigation, hearing, or Informal Resolution can be subject to discipline under appropriate STC policies.

## Confidentiality/Privacy

STC makes every effort to preserve the Parties' privacy. STC will not share the identity of any individual who has made a report of Discrimination, Harassment, Retaliation, or Other Prohibited Conduct; any Complainant; any individual who has been reported to be the perpetrator of Discrimination, Harassment, Retaliation, or Other Prohibited Conduct; any Respondent; or any witness, except as permitted by, or to fulfill the purposes, of applicable laws and regulations (e.g., Title IX), the Family

Educational Rights and Privacy Act (FERPA) and its implementing regulations, or as required by law; including any investigation or resolution proceeding arising under these policies and procedures.<sup>11,12</sup>

Further, Parties and Advisors are expected to maintain the confidentiality of all information created by or shared with them by STC during any investigation and/or resolution process. Parties are entitled to share their own accounts and experiences but are encouraged to consider the sensitivity of the matter if they do so and should consult with their Advisors on any potential implications of doing so.

Additional information regarding confidentiality and privacy can be found in [Appendix F](#).

## Emergency Removal/Interim Actions/Leaves

STC can act to remove a Student Respondent accused of Title IX Sexual Harassment from its Education Program or Activities, partially or entirely, on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any Student or other individual justifies removal. This risk analysis is performed by the Compliance Officer/Title IX Coordinator and may be done in conjunction with the Threat Assessment Team using its standard objective violence risk assessment procedures. Students accused of other forms of Discrimination, Harassment, or Other Prohibited Conduct (not Sex-based) are subject to interim suspension, which can be imposed for safety reasons.

Employees are subject to existing procedures for interim actions and leaves.

## Federal Timely Warning Obligations

STC must issue timely warnings for reported incidents that pose a serious or continuing threat of bodily harm or danger to members of STC community.

STC will ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions considering the potential danger.

## Amnesty

The STC community encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to report alleged misconduct to STC officials or participate in resolution processes because they fear that they themselves may be in violation of certain

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<sup>11</sup> 20 U.S.C. 1232g.

<sup>12</sup> 34 C.F.R. § 99.

policies, such as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons.

It is in the best interests of STC community that Complainants choose to report misconduct to STC officials, that witnesses come forward to share what they know, and that all Parties be forthcoming during the process.

To encourage reporting and participation in the process, STC offers Parties and witnesses amnesty from minor policy violations, such as underage alcohol consumption or the use of illicit drugs, related to the incident. Granting amnesty is a discretionary decision made by STC, and amnesty does not apply to more serious allegations, such as physical abuse of another or illicit drug distribution.

## Students

STC also maintains an amnesty policy for Students in addition to witnesses who offer help to others in need.

## Employees

Sometimes, Employees are hesitant to report Discrimination, Harassment, Retaliation, or Other Prohibited Conduct they have experienced for fear that they may get in trouble themselves. STC may, at its discretion, offer Employee Complainants amnesty from such policy violations (typically more minor policy violations) related to the incident.

## Preservation of Evidence

The preservation of evidence is critical to potential criminal prosecution and to obtaining restraining/protective orders and is particularly time sensitive. STC will inform the Complainant of the importance of preserving evidence by taking actions such as the following:

### Sexual Assault

- Seek forensic medical assistance at the nearest hospital, ideally within 120 hours of the incident (sooner is better)
- Avoid urinating, showering, bathing, washing hands or face, or douching, if possible, but evidence may still be collected even if you do
- If oral sexual contact took place, refrain from smoking, eating, drinking, or brushing teeth
- If clothes are changed, place soiled clothes in a paper bag (plastic destroys evidence) or secure evidence container (if provided by law enforcement)
- Seeking medical treatment can be essential even if it is not for the purpose of collecting forensic evidence

### Stalking/Dating Violence/Domestic Violence/Sex-Based Harassment

- Evidence in the form of text and voice messages will be lost in most cases if a party or witness changes their phone number
  - Make a secondary recording of any voice messages and/or save the audio files to a cloud server
  - Take screenshots and/or a video recording of any text messages or other electronic messages (e.g., Instagram, Snapchat, Facebook)
- Save copies of e-mail and social media correspondence, including notifications related to account access alerts
- Take time-stamped photographs of any physical evidence including notes, gifts, etc. in place when possible
- Save copies of any messages, to include those showing any request for no further contact
- Obtain copies of call logs showing the specific phone number being used rather than a saved contact name if possible
- If changing devices, make sure to transfer any files needed to the new device

During the initial meeting between the Complainant and the Compliance Officer/Title IX Coordinator, the importance of taking these actions will be discussed, if timely.

## Federal Statistical Reporting Obligations

Certain institutional officials (those deemed Campus Security Authorities) have a duty to report the following for federal statistical reporting purposes (Clery Act):

- 1) All “primary crimes,” which include criminal homicide, Sexual Assault, robbery, aggravated assault, burglary, motor vehicle theft, and arson
- 2) Hate crimes, which include any bias-motivated primary crime as well as any bias-motivated larceny or theft, simple assault, intimidation, or destruction/damage/vandalism of property
- 3) Violence Against Women Act (VAWA-based crimes), which include Sexual Assault, Domestic Violence, Dating Violence, and Stalking<sup>13</sup>
- 4) Arrests and referrals for disciplinary action for weapons law violations, liquor law violations, and drug law violations

All personally identifiable information is kept private, but statistical information regarding the type of incident and its general location (on or off campus or in the surrounding area, but no addresses are given) must be shared with the Compliance Officer/Title IX Coordinator for publication in the Annual Security Report and daily campus crime log. Campus Security Authorities include Advisors to student organizations, Campus law enforcement/public safety/security, Coaches, Deans, Director of Access and workforce Opportunity, Director of Admissions, Director of Financial Aid , Director of Student Success and Staff, Hovland Learning Center Director, Human resources staff, Local police, Registrar staff, Residence life staff, STC President, Student activities staff, Student affairs staff, Student conduct staff,

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<sup>13</sup> 42 U.S.C. sections 13701 through 14040.

Title IX Coordinator, VP of Academic Affairs, VP of Enrollment Management and Student Affairs, and any other official with significant responsibility for student and campus activities.

## Independence and Conflict of Interest

The Compliance Officer/Title IX Coordinator manages the Title IX Team and acts with independence and authority, free from bias and conflicts of interest. The Compliance Officer/Title IX Coordinator oversees all Resolutions under the Policy and associated procedures. The members of the Resolution Process Pool are vetted and trained to ensure they are not biased for or against any party in a specific Formal Complaint, or for or against Complainants and/or Respondents, generally.

To raise any concern involving bias, conflict of interest, misconduct, or Discrimination by the Compliance Officer/Title IX Coordinator, contact the STC President. Concerns of bias, misconduct, Discrimination, or a potential conflict of interest by any other Title IX Team member should be raised with the Compliance Officer/Title IX Coordinator.

## Policy Revision

The Policy and associated procedures succeed all previous policies addressing Discrimination, Harassment, sexual misconduct, and/or Retaliation, for incidents occurring on or after August 14, 2020. The Compliance Officer/Title IX Coordinator regularly reviews and updates the Policy and procedures. Incidents occurring before August 14, 2020, will be addressed using the policy that was in place at the time of the incident, but the procedures used will be those in place at the time of the Formal Complaint. STC reserves the right to make changes to this document as necessary, and those changes are effective once they are posted online.

If laws or regulations change or court decisions alter policy or procedural requirements in a way that impacts this document, this document will be construed to comply with the most recent laws, regulations, or court holdings.

This document does not create legally enforceable protections beyond the protections of the background federal and state laws that frame such policies and codes, generally.

A change required by a court or government order could occur during an active investigation or resolution process. If that happens, STC reserves the right to adjust the Policy and Procedures accordingly and notify the Parties of any necessary mid-process changes. This could include entirely replacing the Policy or associated procedures, which could necessitate restarting an investigation or resolution process. STC will make every effort to minimize the impact on the Parties as much as possible if changes are unavoidable.



### 3. Definitions:

#### APPENDIX A: DEFINITIONS<sup>14</sup>

The following definitions apply to the Equal Opportunity, Harassment, and Nondiscrimination Policies and Procedures:

- **Advisor.** Any person chosen by a party, or appointed by the institution, who may accompany the party to all meetings related to a resolution process, advise the party on that process, and conduct questioning for the party at the hearing, if any.
- **Compliance Officer/Title IX Coordinator.** The person with primary responsibility for overseeing and enforcing the Equal Opportunity, Harassment, and Nondiscrimination Policy and Procedures. As used throughout the Policy and procedures, the “Compliance Officer/Title IX Coordinator” also includes their designee(s).
- **Appeal Decision-maker.** The person or panel who accepts or rejects a submitted appeal request, determines whether any of the appeal grounds are met, and directs responsive action(s) accordingly.
- **Complainant.** An individual who has allegedly been subjected to conduct that could constitute Discrimination, Harassment, Retaliation, or Other Prohibited Conduct under the Policy.
- **Confidential Resource.** An Employee who is not a Mandated Reporter of Notice of Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct under the Policy (irrespective of Clery Act Campus Security Authority status).
- **Day.** A business day when STC is in normal operation. All references to days in the Policy refer to business days unless specifically noted.
- **Decision-maker.** The person or panel who reviews evidence, determines relevance, and makes the Final Determination of whether the alleged conduct has violated the Policy and/or assigns sanctions.
- **Directly Related Evidence.** Evidence connected to the allegations, but which is neither inculpatory (tending to prove a violation) nor exculpatory (tending to disprove a violation) and which cannot be relied upon by the Decision-maker. Compare to Relevant Evidence below.
- **Education Program or Activity.** Locations, events, or circumstances where STC exercises substantial control over both the Respondent and the context in which the Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct occurs. Also includes any building owned or controlled by a student organization that STC officially recognizes.
- **Employee.** A person, including Faculty, employed by STC, either full- or part-time, including Student-Employees when acting within the scope of their employment.

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<sup>14</sup> Defined terms are considered “terms of art” and are capitalized throughout this document.

- **Faculty.** Any member of STC community who is responsible for academic activities, teaching, research, or the academic evaluation of Students.
- **Final Determination.** A conclusion by the standard of evidence that the alleged conduct did or did not violate the Policy.
- **Finding.** A conclusion by the standard of proof that the conduct did or did not occur as alleged (as in a “finding of fact”).
- **Formal Complaint.** A document submitted or signed by a Complainant or signed by the Compliance Officer/Title IX Coordinator alleging a Respondent engaged in Discrimination, Harassment, Retaliation, and/or Prohibited Conduct under the Policy and requesting that STC investigate the allegation(s).
- **Formal Grievance Process.** “Process A,” STC’s method of formal resolution to address Title IX Sexual Harassment allegations, which complies with the requirements of the Title IX regulations (34 C.F.R. § 106.45) and the Violence Against Women Act amendments to the Clery Act (34 C.F.R. § 668). See Appendix C for information on the Administrative Resolution Process (“Process B”) STC may use to resolve complaints in certain situations.
- **Informal Resolution.** A Resolution the Parties agree to and the Compliance Officer/Title IX Coordinator approves, which occurs prior to a Final Determination.
- **Investigation Report.** The Investigator’s written summary of all Relevant Evidence gathered during the investigation. Versions include the Draft Investigation Report and the Final Investigation Report.
- **Investigator.** The person(s) STC authorizes to gather facts about an alleged violation of the Policy, assess relevance and credibility, synthesize the evidence, and compile this information into an Investigation Report of Relevant Evidence and a file of Directly Related Evidence.
- **Mandated Reporter.** A STC Employee who is obligated by Policy to share knowledge, Notice, and/or reports of Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct with the Compliance Officer/Title IX Coordinator and/or their supervisor.<sup>15</sup>
- **Notice.** When an Employee, Student, or third party informs the Compliance Officer/Title IX Coordinator or other Official with Authority of the alleged occurrence of Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct.
- **Official with Authority (OWA).** A STC Employee who has responsibility to implement responsive measures for Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct on STC’s behalf. STC OWAs.
- **Parties.** The collective term for the Complainant(s) and Respondent(s) involved in a complaint.
- **Pregnancy or Related Conditions.** Pregnancy, childbirth, termination of pregnancy, or lactation, medical conditions related thereto, or recovery therefrom.

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<sup>15</sup> Not to be confused with those mandated by state law to report child abuse, elder abuse, and/or abuse of individuals with disabilities to appropriate officials, though these responsibilities may overlap with those who have mandated reporting responsibility under the Policy.

- **Process A.** The Formal Grievance Process detailed in the procedures and defined above.
- **Process B.** The Administrative Resolution Process detailed in Appendix C that only applies when Process A does not, as determined by the Compliance Officer/Title IX Coordinator.
- **Protected Characteristic.** Any characteristic for which a person is afforded protection against Discrimination and Harassment by law or STC policy.
- **Reasonable Person.** A reasonable person under similar circumstances and with similar identities to the Complainant.
- **Relevant Evidence.** Evidence that tends to prove or disprove any element of an offense or any issue materials to resolving a complaint.
- **Remedies.** Typically, post-Resolution actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to STC's Education Program or Activity.
- **Respondent.** A person who is alleged to have engaged in conduct that could constitute Discrimination based on a protected characteristic, Harassment, or Retaliation for engaging in a protected activity under the Policy, or Other Prohibited Conduct.
- **Resolution.** The result of an Informal Resolution, a Formal Grievance Process, or Administrative Resolution Process.
- **Sanction.** A consequence imposed on a Respondent who is found to have violated the Policy.
- **Sex.** Birth Sex (under Title IX). Outside Title IX, Sex can include gender identity, gender expression, sexual orientation, sex characteristics, and sex stereotypes.
- **Student.** Any individual who has accepted an offer of admission, or who is registered for or enrolled in for-credit or non-credit-bearing coursework, and who maintains an ongoing educational relationship with STC.
- **Title IX Coordinator.** At least one official designated by STC to ensure compliance with Title IX and STC's Title IX program. References to the Coordinator throughout the Policy may also encompass a Coordinator's designee for specific tasks.
- **Title IX Team** refers to The Compliance Officer/Title IX Coordinator, any deputy coordinators, and any member of the Resolution Process Pool.

Bullets:

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## 4. Reporting Procedures

### Overview

STC will act on any Notice/Formal Complaint of violation of the Equal Opportunity, Harassment, and Nondiscrimination Policy (“the Policy”) that the Compliance Officer/Title IX Coordinator or any other Official with Authority receives. STC uses two sets of procedures, known as Process A and Process B. Process A is compliant with the federal Title IX regulations. It involves an investigation and live hearing, including cross-examination. It also includes an Informal Resolution option.

Process A is applicable to all Formal Complaints of Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence, and Stalking that occur within STC’s Education Program or Activity.

Process B may apply to: (1) Formal Complaints of alleged Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence, or Stalking that fall outside of STC’s Education Program or Activity; and (2) all other complaints of Discrimination, Harassment, and Retaliation on the basis of all Protected Characteristics.

The choice between applying Process A or B is solely at the Compliance Officer/Title IX Coordinator’s discretion. Occasionally, a Formal Complaint will include conduct that falls within both Processes A and B. When that occurs, Process A will typically be used to address all allegations.

### Notice/Complaint

Upon receipt of Notice or a Formal Complaint of an alleged Policy violation, the Compliance Officer/Title IX Coordinator will initiate a prompt initial assessment to determine STC’s next steps. The Compliance Officer/Title IX Coordinator will contact the Complainant to offer supportive measures, provide information regarding resolution options, and determine how they wish to proceed.

### Collateral Misconduct

Collateral misconduct includes potential violations of other STC policies that occur in conjunction with alleged violations of the Policy, or that arise through the course of the investigation, for which it makes sense to provide one resolution for all allegations. Thus, the collateral allegations may be charged along with potential violations of the Policy, to be resolved jointly under these Procedures. In such circumstances, the Compliance Officer/Title IX Coordinator may consult with STC officials who typically oversee such conduct (e.g., human resources, student conduct, academic affairs) to solicit their input as needed on what charges should be filed, but the exercise of collateral charges under these procedures is within the Compliance Officer/Title IX Coordinator’s discretion. All other allegations of misconduct unrelated to incidents covered by the Policy will typically be addressed separately through procedures described in the Student, Faculty, and Employee handbooks.



## FORMAL GRIEVANCE PROCESS FOR ALLEGED VIOLATIONS OF THE EQUAL OPPORTUNITY, HARASSMENT, AND NONDISCRIMINATION POLICY (KNOWN AS PROCESS “A”)

### Initial Assessment

The Compliance Officer/Title IX Coordinator conducts an initial assessment, typically within five (5) business days of receiving Notice or a Formal Complaint.<sup>16</sup> The initial assessment typically includes:

- Assessing whether the reported conduct may reasonably constitute a Policy violation.
- Determining whether STC has jurisdiction over the reported conduct.
- Offering and coordinating supportive measures for the Parties.
- Notifying the Complainant, or the person who reported the allegation(s), of the available resolution options
- Determining whether the Complainant wishes to file a Formal Complaint.
- Notifying the Respondent of the available resolution options if a Formal Complaint is made.

#### ***Helping a Complainant Understand Resolution Options***

If the Complainant indicates they wish to file a Formal Complaint, the Compliance Officer/Title IX Coordinator will work with the Complainant to determine which resolution option they prefer. The Compliance Officer/Title IX Coordinator will seek to abide by the Complaint’s wishes but may have to take another approach depending upon their assessment of the situation.

If the Formal Grievance Process is pursued, the Compliance Officer/Title IX Coordinator will initiate an investigation. If any party indicates that they want to pursue an Informal Resolution option, the Compliance Officer/Title IX Coordinator will refer the matter to the appropriate individual(s) if the Compliance Officer/Title IX Coordinator determines Informal Resolution is available and the other Parties consent to participate. Informal Resolution cannot be used to resolve a Formal Complaint of Title IX Sexual Harassment involving an Employee Respondent and a Student Complainant.<sup>17</sup>

If the Complainant does not want any action taken, the Compliance Officer/Title IX Coordinator will consider that request. Typically, allegations of Student-on-Student and Employee-on-Employee misconduct will not prompt the Formal Grievance Process unless deemed necessary by the Compliance Officer/Title IX Coordinator, though the Complainant can elect to pursue the formal process in the

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<sup>16</sup> If circumstances require, the Director of Human Resources or Compliance Officer/Title IX Coordinator will designate another person to oversee the resolution process should an allegation be made about the Compliance Officer/Title IX Coordinator or the Compliance Officer/Title IX Coordinator be otherwise unavailable, unable to fulfill their duties, or have a conflict of interest.

<sup>17</sup> 34 C.F.R. § 106.45.

future. The Compliance Officer/Title IX Coordinator may need to refer allegations of Employee-on-student misconduct to the Formal Grievance Process regardless of the Complainant's wishes, depending on the nature of the allegations.

The Compliance Officer/Title IX Coordinator may consider elements such as patterns of behavior, predation, threats, violence, use of weapons, or involvement of minors in determining whether to sign a Formal Complaint.

### ***Compliance Officer/Title IX Coordinator Authority to Initiate a Complaint***

The Compliance Officer/Title IX Coordinator has ultimate discretion as to whether a Formal Complaint is made and may consult with appropriate STC Employees, and/or conduct a violence risk assessment to aid their determination whether to sign a Formal Complaint on behalf of the Complainant.

If a Complainant is not participating or attempting to participate in STC's Education Program or Activity at the time of making a Formal Complaint, they can request that the Compliance Officer/Title IX Coordinator sign a Formal Complaint. When the Compliance Officer/Title IX Coordinator signs a Formal Complaint, they do not become the Complainant. The Complainant is the person who experienced the alleged misconduct. If the Compliance Officer/Title IX Coordinator declines to sign a Formal Complaint, alternative processes may be available and can be explored with the Compliance Officer/Title IX Coordinator.

## Dismissal (Mandatory and Discretionary)<sup>18</sup>

STC **must** dismiss a Formal Complaint or any allegations therein if, at any time during the investigation or hearing, it is determined that:

1. The conduct alleged in the Formal Complaint would not constitute Title IX Sexual Harassment as defined above, even if proven
2. The Sex-based conduct did not occur in STC's Education Program or Activity (including buildings or property controlled by recognized student organizations) and/or STC does not have control of the Respondent
3. The Sex-based conduct did not occur against a person in the United States
4. The Complainant alleging Sex-based conduct is not participating in or attempting to participate in STC's Education Program or Activity at the time of filing the Formal Complaint, and based on the available information, the Compliance Officer/Title IX Coordinator has determined that they do not need to sign a Formal Complaint on behalf of STC<sup>19</sup>

STC **may** dismiss a Formal Complaint or any allegations therein if, at any time during the investigation or hearing:

<sup>18</sup> These dismissal requirements are mandated by 34 CFR § 106.45.

<sup>19</sup> Such a Complainant is still entitled to supportive measures, but the Formal Grievance Process is not applicable unless the Compliance Officer/Title IX Coordinator signs the Formal Complaint in the event the Complainant cannot/will not do so.

1. A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein
2. The Respondent is no longer enrolled in or employed by STC
3. Specific circumstances prevent STC from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein

A Complainant who decides to withdraw a Formal Complaint may later request to reinstate it or refile it.

Upon any dismissal, STC will promptly and simultaneously send the Parties written notice of the dismissal and the rationale for doing so.

This dismissal decision is appealable by any party. The decision not to dismiss is also appealable by any party claiming that a dismissal is required or appropriate.

When the Compliance Officer/Title IX Coordinator has signed a Formal Complaint and later determines that the basis for signing is no longer compelling, the Compliance Officer/Title IX Coordinator may rescind the Formal Complaint and notify the Parties accordingly. This is not a dismissal, and there is no opportunity to appeal because the Complainant may still file a Formal Complaint if they wish to, in most circumstances.

## Appeal of Dismissal

The Parties may appeal a decision to dismiss or not to dismiss their Formal Complaint. All dismissal appeal requests must be filed within five (5) business days of the notification of the dismissal decision.

A dismissal may be appealed on the following grounds:

- 1) A procedural irregularity affected the outcome of the matter
- 2) New evidence that was not reasonably available at the time the determination regarding dismissal was made, that could affect the outcome of the matter
- 3) The Compliance Officer/Title IX Coordinator, Investigator(s), or Decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter

The appeal should specify at least one of the grounds above and provide any reasons or supporting evidence for why the ground is met. Upon receipt of a written dismissal appeal request from one or more Parties, the Compliance Officer/Title IX Coordinator will share the request and supporting documentation with all other Parties and provide five (5) business days for other Parties and the Compliance Officer/Title IX Coordinator to respond to the request. At the conclusion of the response period, the Compliance Officer/Title IX Coordinator will forward the request, as well as any response

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provided by the other Parties and/or the Compliance Officer/Title IX Coordinator to the Dismissal Appeal Decision-maker for consideration.

If the appeal request does not provide information that meets the grounds in the Policy, the Dismissal Appeal Decision-maker will deny the request, and the Parties, their Advisors, and the Compliance Officer/Title IX Coordinator will be notified in writing of the denial and the rationale.

If any of the asserted grounds in the appeal satisfy the grounds described in the Policy, then the Dismissal Appeal Decision-maker will notify all Parties and their Advisors, and the Compliance Officer/Title IX Coordinator of their decision and rationale in writing. The effect will be to reinstate the Complaint.

In most circumstances, appeals are confined to a review of the written documentation or record of the original determination and pertinent documentation regarding the specific appeal grounds. The Dismissal Appeal Decision-maker has seven (7) business days to review and decide on the appeal, though extensions can be granted at the Compliance Officer/Title IX Coordinator's discretion, and the Parties will be notified of any extension.

Appeal decisions are deferential to the original determination, making changes only if there is a compelling justification to do so.

The Dismissal Appeal Decision-maker may consult with the Compliance Officer/Title IX Coordinator and/or legal counsel on questions of procedure or rationale for clarification, if needed. The Compliance Officer/Title IX Coordinator will maintain documentation of all such consultation.

## Emergency Removal/Interim Suspension of a Student

STC may emergency remove a Student accused of Title IX Sexual Harassment upon receipt of a Formal Complaint or at any time during the Formal Grievance Process. Prior to an emergency removal, STC will conduct an individualized risk assessment and may remove the Student if that assessment determines that an immediate threat to the physical health or safety of any Student or other individual justifies removal. Students accused of other forms of Discrimination, Harassment, Retaliation, or Other Prohibited Conduct (not Sex-based) are subject to interim suspension, which can be imposed for safety reasons.

When an emergency removal or interim suspension is imposed, wholly or partially, the affected Student will be notified of the action, which will include a written rationale, and the option to challenge the emergency removal or interim suspension within two (2) business days of the notification. Upon receipt of a challenge, the Compliance Officer/Title IX Coordinator will meet with the Student (and their Advisor, if desired) as soon as reasonably possible thereafter to allow them to show cause why the removal/action should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal or interim suspension is appropriate, should be modified, or should be lifted. When this meeting is not requested within two (2) business

days, objections to the emergency removal or interim suspension will be deemed waived. A Student can later request a meeting to show why they are no longer an immediate threat because conditions related to the threat have changed. A Complainant and their Advisor may be permitted to participate in this meeting if the Compliance Officer/Title IX Coordinator determines it is equitable for them to do so.

The Respondent may provide information, including expert reports, witness statements, communications, or other documentation for consideration prior to or during the meeting. When applicable, a Complainant may provide information to the Compliance Officer/Title IX Coordinator for review.

An emergency removal or interim suspension may be affirmed, modified, or lifted as a result of a requested review or as new information becomes available. The Compliance Officer/Title IX Coordinator will communicate the final decision in writing, typically within three (3) business days of the review meeting.

## Placing Employees on Leave

When the Respondent is an Employee, or a Student-Employee accused of misconduct in the course of their employment, existing provisions for interim action are typically applicable instead of the above emergency removal process.

## Counter-Complaints

STC is obligated to ensure that the Formal Grievance Process is not abused for retaliatory purposes. Although STC permits the filing of counter-complaints, the Compliance Officer/Title IX Coordinator will use an initial assessment, described above, to assess whether the allegations in the counter-complaint are made in good faith. When counter-complaints are not made in good faith, they will not be permitted. They will be considered potentially retaliatory and may constitute a Policy violation. Counter-complaints determined to have been reported in good faith will be processed using the Formal Grievance Process. At the Compliance Officer/Title IX Coordinator's discretion, investigation of such claims may take place after resolution of the underlying initial Formal Complaint.

## Advisors in the Formal Grievance Process

The Parties may each have an Advisor of their choice present with them for all meetings, interviews, and hearings within the Formal Grievance Process, if they so choose.

Choosing an Advisor who is also a witness in the process creates potential for bias and conflict of interest. A party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by the Decision-maker.

### Who Can Serve as an Advisor

The Parties may each have an Advisor (friend, mentor, family member, attorney, or any other individual a party chooses) present with them for all meetings, interviews, and hearings within the resolution process, including intake. The Parties may select whomever they wish to serve as their Advisor as long as the Advisor is eligible and available.<sup>20</sup> Parties have the right to choose not to have an Advisor in the initial stages of the Formal Grievance Process, prior to a hearing.

The Compliance Officer/Title IX Coordinator will offer to assign a trained Advisor to any party. If the Parties choose an Advisor from STC's Resolution Process Pool, STC will have trained the Advisor and familiarized them with STC's Formal Grievance Process.

STC cannot guarantee equal advisory rights, meaning that if one party selects an Advisor who is an attorney, but the other party does not, or cannot afford an attorney, STC is not obligated to provide an attorney to advise that party. However, all institutionally appointed Advisors will be provided with similar training.

If the Parties choose an Advisor from outside the Resolution Process Pool, the Advisor may not have been trained by STC and may not be familiar with STC policies and procedures.

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. Parties are expected to provide the Compliance Officer/Title IX Coordinator with timely notification if they change Advisors. If a party changes Advisors, consent to share information with the previous Advisor is assumed to be terminated, and a release for the new Advisor must be submitted.

STC may permit Parties to have more than one Advisor, or an Advisor and a support person, upon special request to the Compliance Officer/Title IX Coordinator. The decision to grant this request is at the Compliance Officer/Title IX Coordinator's sole discretion and will be granted equitably to all Parties.

As a public entity, STC fully respects and accords the Weingarten rights of Employees, meaning that for Parties who are entitled to union representation, STC will allow the unionized Employee to have their union representative (if requested by the party) as well as an Advisor of their choice present for all Formal Grievance Process meetings and interviews. To uphold the principles of fairness, the other party (regardless of union membership) will also be permitted to have two Advisors. Witnesses are permitted to have union representation or Advisors in resolution process interviews or meetings.

### Advisor's Role in the Formal Grievance Process

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<sup>20</sup> "Available" means the party cannot insist on an Advisor who simply doesn't have inclination, time, or availability. Also, the Advisor cannot have institutionally conflicting roles, such as being a Title IX administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions.

Advisors should help the Parties to prepare for each meeting or hearing and are expected to advise ethically, with integrity, and in good faith. Advisors may not provide testimony or speak on behalf of their advisee unless given specific permission to do so.

The Parties are expected to respond to questions on their own behalf throughout the Formal Grievance Process. Although the Advisor generally may not speak on behalf of their advisee, except for conducting cross-examination during a hearing, the Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any Resolution Process meeting or interview. For longer or more involved discussions, the Parties and their Advisors should ask for breaks to allow for private consultation.

The Title IX Regulations require a form of indirect questioning during the hearing, which must be conducted by the Parties' Advisors. The Parties are not permitted to directly question each other or any witnesses. If a party does not have an Advisor for a hearing, STC will appoint a trained Advisor for the limited purpose of conducting any questioning of the Parties and witnesses.

### Records Shared with Advisors

Advisors are entitled to the same opportunity as their advisee to receive copies of the Draft and Final Investigation Reports, as well as the Directly Related Evidence file. Parties will be asked to sign releases for STC to share materials with an Advisor.

Advisors are expected to maintain the confidentiality of the records STC shares with them. Accordingly, Advisors will be asked to sign Non-Disclosure Agreements (NDAs). STC may decline to share materials with any Advisor who has not executed the NDA. STC may restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by STC's confidentiality expectations.

### Advisor Expectations

STC generally expects an Advisor to adjust their schedule to allow them to attend STC meetings/interviews/hearings when planned, but STC may change scheduled meetings/interviews/hearings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay.

STC may also make reasonable provisions to allow an Advisor who cannot be present in person to attend a meeting/interview/hearing by telephone, video conferencing, or other similar technologies as may be convenient and available.

All Advisors are subject to the same STC policies and procedures, whether they are attorneys or not, and whether they are selected by a party or appointed by STC. Advisors are expected to advise without disrupting proceedings.

### Advisor Policy Violations

Any Advisor who oversteps their role as defined by the Policy, who shares information or evidence in a manner inconsistent with the Policy, or who refuses to comply with STC's established rules of decorum

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will be warned. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting/interview/hearing may be ended, or other appropriate measures implemented, including STC requiring the party to use a different Advisor or providing a different STC-appointed Advisor. Subsequently, the Compliance Officer/Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.

## Resolution Options Overview

The Formal Grievance Process is STC's primary resolution approach unless all Parties and STC agree to an Informal Resolution. The process considers the Parties' preferences but is ultimately determined at the Compliance Officer/Title IX Coordinator's discretion.

Resolution proceedings are private. All persons present at any time during a resolution process are expected to maintain the privacy of the proceedings in accordance with the Policy.

There is an expectation of privacy around what Investigators share with Parties during interviews and for any materials the institution shares with the Parties during the resolution process. The Parties have discretion to share their own knowledge and evidence with others if they choose, except for information the Parties agree not to disclose as part of an Informal Resolution. STC encourages Parties to discuss any sharing of information with their Advisors before doing so.

### Informal Resolution

To initiate Informal Resolution, a Complainant or Respondent may make such a request to the Compliance Officer/Title IX Coordinator at any time prior to a Final Determination or the Compliance Officer/Title IX Coordinator may offer the option to the Parties. STC will obtain voluntary, written confirmation that all Parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the Parties to participate in Informal Resolution. To engage in Informal Resolution, a Complaint must first submit a Formal Complaint.

Three approaches to Informal Resolution are detailed in this section.

- 1) **Supportive Resolution.** When the Compliance Officer/Title IX Coordinator can resolve the matter informally by providing supportive measures (only) designed to remedy the situation. Supportive Resolution involves only the party who opts for it
- 2) **Accepted Responsibility.** When the Respondent accepts responsibility for violating Policy and accepts the recommended sanction(s), and the Complainant(s) and Compliance Officer/Title IX Coordinator are agreeable to the resolution terms
- 3) **Alternative Resolution.** When the Parties agree to resolve the matter through an alternative resolution mechanism (which could include, but is not limited to, mediation, shuttle negotiation, restorative practices, facilitated dialogue, etc.), as described below

It is not necessary to pursue Informal Resolution first in order to pursue a Formal Grievance Process. Any party participating in Informal Resolution can withdraw from the Informal Resolution process at any time and initiate or resume the Formal Grievance Process.

The Parties may agree, as a condition of engaging in Informal Resolution, on what statements made or evidence shared during the Informal Resolution process will not be considered in the Formal Grievance Process should Informal Resolution not be successful.

If an investigation is already underway, the Compliance Officer/Title IX Coordinator has discretion to determine if the investigation will be paused, if it will be limited, or if it will continue during the Informal Resolution process.

Prior to engaging in Informal Resolution, STC will provide the Parties with written notice of the reported misconduct and any sanctions (only in the case of Accepted Responsibility) or measures that may result from participating in such a process, including information regarding any records that STC will maintain and under which circumstances they may be released.

### Informal Resolution Approaches

#### **Supportive Resolution**

Most commonly offered once a Formal Complaint is filed (whereas supportive measures, as described in [Section 9](#) of the Policy, are offered in response to Notice). The Compliance Officer/Title IX Coordinator will meet with the Complainant to determine reasonable supports that are designed to restore or preserve the Complainant's access to STC's Education Program and Activity. Such supports can be modified as the Complainant's needs evolve over time or circumstances change. If the Respondent has received the NOIA, the Compliance Officer/Title IX Coordinator may also provide reasonable supports for the Respondent as deemed appropriate. This option is available when the Complainant does not want to engage the other resolution options and the Compliance Officer/Title IX Coordinator does not believe there is a need to sign a Formal Complaint. At the discretion of the Compliance Officer/Title IX Coordinator, this resolution option can result in an agreement between the Complainant and STC that does not require assent from any other party, as long as it does not unduly burden any other party or function punitively with respect to them.

#### **Accepted Responsibility**

The Respondent may accept responsibility for any or all of the alleged Policy violations at any point during the Formal Grievance Process. If the Respondent indicates an intent to accept responsibility for **all** alleged Policy violations, the ongoing process will be paused, and the Compliance Officer/Title IX Coordinator will determine whether Informal Resolution is an option.

If Informal Resolution is available, the Compliance Officer/Title IX Coordinator will determine whether all Parties and STC are able to agree on responsibility, restrictions, sanctions, restorative measures, and/or remedies. If so, the Compliance Officer/Title IX Coordinator implements the accepted Finding that the Respondent is in violation of STC Policy, implements agreed-upon

restrictions and remedies, and determines any other appropriate responses in coordination with other appropriate administrator(s), as necessary.

This resolution is not subject to appeal once all Parties indicate their written agreement to all resolution terms. When the Parties cannot agree on all terms of resolution, the Formal Grievance Process will either begin or resume.

When a resolution is reached, the appropriate sanction(s) or responsive actions are promptly implemented to effectively stop the discrimination or harassment, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

### **Alternative Resolution**

The institution offers a variety of alternative resolution mechanisms to best meet the specific needs of the Parties and the nature of the allegations. Alternative resolution may involve agreement to pursue individual or community remedies, including targeted or broad-based educational programming or training; supported direct conversation or interaction between the Parties; indirect action by the Compliance Officer/Title IX Coordinator or other appropriate STC officials; and other forms of resolution that can be tailored to the needs of the Parties. Some alternative resolution mechanisms will result in an agreed-upon outcome, while others are resolved through dialogue. All Parties must consent to the use of an alternative resolution approach, and the Parties may, but are not required to, have direct or indirect contact during an alternative resolution process.

The Compliance Officer/Title IX Coordinator has the authority to determine whether alternative resolution is available or successful, to facilitate a resolution that is acceptable to all Parties, and/or to accept the Parties' proposed resolution, usually through their Advisors, often including terms of confidentiality, release, and non-disparagement.

Parties do not have the authority to stipulate restrictions or obligations for individuals or groups that are not involved in the alternative resolution process. The Compliance Officer/Title IX Coordinator will determine whether additional individual or community remedies are necessary to meet the institution's compliance obligations in addition to the alternative resolution.

The Compliance Officer/Title IX Coordinator maintains records of any resolution that is reached and will provide notification to the Parties of what information is maintained. Failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions (e.g., dissolution of the agreement and resumption of the Formal Grievance Process, referral to the conduct process for failure to comply, application of the enforcement terms of the agreement). Where the failure to abide by the Informal Resolution agreement terms results in a failure to remedy a Policy violation, the Compliance Officer/Title IX Coordinator must consider whether to dissolve the agreement and reinstate the Formal Grievance Process to remedy the impact as required by law. The results of Formal Complaints resolved by alternative resolution are not appealable.

If an Informal Resolution option is not available or selected, STC will initiate or continue an investigation and subsequent Formal Grievance Process to determine whether the Policy has been violated.

Formal Grievance Process (begins at [Section 10](#) below)

## Resolution Process Pool

STC relies on a pool of individuals (“the Pool”) to carry out the resolution options.

### Pool Member Roles

Resolution Process Pool members are trained annually, and can serve in any of the following roles at the Compliance Officer/Title IX Coordinator’s discretion:

- Appropriate intake of and initial guidance pertaining to Formal Complaints
- Perform or assist with initial assessment
- Advisor to Parties
- Informal Resolution Facilitator
- Investigator
- Hearing Facilitator
- Decision-maker
- Appeal of Dismissal Decision-maker
- Appeal Decision-maker

### Pool Member Appointment

The Compliance Officer/Title IX Coordinator, in consultation with senior administrators as necessary, appoints the Resolution Process Pool, which acts with independence and impartiality. Although members of the Resolution Process Pool are typically trained in a variety of skill sets and can rotate amongst the different roles listed above in different Formal Complaints, STC can also designate permanent roles for individuals in the Resolution Process Pool.

Pool Member Training (See training materials)

## Notice of Investigation and Allegations (NOIA)

The Compliance Officer/Title IX Coordinator will provide the Parties written Notice of the Investigation and Allegations (the “NOIA”) upon commencement of the Formal Grievance Process. Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available. For climate/culture investigations that do not have an identifiable Respondent, the NOIA will be sent to the department/office/program head for the area/program being investigated.

The NOIA will include:

- A meaningful summary of all allegations
- The names of the involved Parties (if known)
- The precise misconduct being alleged
- The date and location of the alleged incident(s) (if known)
- The specific policies/offenses implicated
- A description of, link to, or copy of the applicable procedures
- A statement that STC presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a Final Determination that the Policy has been violated
- The name(s) of the Investigator(s), along with a process to notify the Compliance Officer/Title IX Coordinator of any conflict of interest that the Investigator(s) may have in advance of the interview process
- A statement that determinations of responsibility are made at the conclusion of the process and that the Parties will be given an opportunity during the review and comment period to inspect and review all Relevant and Directly Related Evidence obtained
- A statement of the potential sanctions/responsive actions that could result
- A statement about STC's policy on Retaliation
- Information about process confidentiality
- Information on the need for each party to have an Advisor of their choosing and suggestions for ways to identify an Advisor
- A statement informing the Parties that STC's Policy prohibits knowingly making false statements, including knowingly submitting false information during the Formal Grievance Process
- Information about how a party may request disability accommodations or other support assistance during the Formal Grievance Process
- A link to STC's VAWA Brochure
- An instruction to preserve any evidence that is directly related to the allegations

Notification will be made in writing and may be delivered by one or more of the following methods: in person or emailed to the Parties' STC-issued email or other approved accounts. Once emailed and/or received in-person, notice is presumptively delivered.

## Resolution Timeline

STC will make a good faith effort to complete the Formal Grievance Process within ninety (90) business days, including any appeals, which the Compliance Officer/Title IX Coordinator can extend as necessary for appropriate cause. The Parties will receive regular updates on the progress of the Formal Grievance Process, as well as notification and a rationale for any extensions or delays, and an estimate of how much additional time will be needed to complete the process.

Investigations are completed expeditiously, normally within sixty (60) business days, though some investigations may take longer, depending on the nature, extent, and complexity of the allegations, witness availability, law enforcement involvement, and other factors.

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STC may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include, but are not limited to, a request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence of Parties and/or witnesses, and/or health conditions. STC will promptly resume its Formal Grievance Process as soon as feasible. During such a delay, STC will implement and maintain supportive measures for the Parties as deemed appropriate.

STC action(s) or processes are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

STC will make a good faith effort to complete the Formal Grievance Process as promptly as circumstances permit and will regularly communicate with the Parties to update them on the progress and timing of the process.

## Ensuring Impartiality

No individual materially involved in the administration of the Formal Grievance Process, including the Compliance Officer/Title IX Coordinator, Investigator(s), and Decision-maker(s), may have or demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

The Compliance Officer/Title IX Coordinator will vet the assigned Investigator(s), Decision-maker(s), and Appeal Decision-maker(s) for impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. The Parties may raise a concern regarding bias or conflict of interest at any time during the Formal Grievance Process, and the Compliance Officer/Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another Resolution Process Pool member, or other trained individual, will be assigned, and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Compliance Officer/Title IX Coordinator, concerns should be raised with the Director of Human Resources.

The Formal Grievance Process involves an objective evaluation of all Relevant Evidence obtained, including evidence that supports that the Respondent violated the Policy and evidence that supports that the Respondent did not violate the Policy. Credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness. All Parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence, and to receive a written Investigation Report that accurately summarizes this evidence.

## Witness Role and Participation in the Investigation

Witnesses who are STC Employees are strongly encouraged to cooperate with and participate in STC's investigation and Formal Grievance Process. Student witnesses and witnesses from outside STC

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community are encouraged to cooperate with STC investigations and to share what they know about a Formal Complaint.

Interviews may be conducted in person, via online video platforms (e.g., Zoom, Microsoft Teams, FaceTime, WebEx), or, in limited circumstances, by telephone. STC will take appropriate steps to ensure the security/privacy of remote interviews.

Parties and witnesses may also provide written statements in lieu of interviews or choose to respond to written questions, if deemed appropriate by the Investigator(s), though not preferred.

## Interview Recording

It is standard practice for Investigators to create a record of all interviews pertaining to the Formal Grievance Process, by recording, transcript, or written summary. The Parties may review copies of their own interviews upon request. No unauthorized audio or video recording of any kind is permitted during investigation meetings.

All interviews are recorded, and all involved persons should be made aware of the audio and/or video recording. The recording and/or transcript of those meetings will be provided to the Parties for their review, after which the Parties may suggest additional questions to be asked of another party or witness or additional witnesses. Those subsequent meetings or interviews are also recorded and/or transcribed.

## Evidentiary Considerations

The Investigator(s) and the Decision-maker(s) will only consider Relevant or Directly Related Evidence.

Neither the investigation nor the hearing will consider:

- 1) Questions or evidence about the Complainant's sexual predisposition<sup>21</sup>
- 2) Questions or evidence about the Complainant's prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the alleged conduct, or if the questions or evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent<sup>22</sup>

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<sup>21</sup> STC defines "predisposition" in alignment with its commonly understood and dictionary definition of being inclined toward a thing, action, or person. Predisposition does not encompass an aversion, or being disinclined to a thing, action, or person.

<sup>22</sup> STC defines "prior sexual behavior" to include only sexual actions taken by or involving Complainant prior to the reported incident(s), not to the absence of such actions.

- 3) Questions or evidence about a party or witness's records that are made or maintained by a physician, psychologist, or psychiatrist unless the party or witness provides voluntary, written consent for the records to be considered

Within the boundaries stated above, the investigation and the hearing can consider character evidence, if offered, but that evidence is unlikely to be relevant unless it is fact evidence or relates to a pattern of conduct.

Previous disciplinary action of any kind involving the Respondent may not be considered unless there is an allegation of a pattern of misconduct. Such information may also be considered in determining an appropriate sanction upon a determination of responsibility. Barring a pattern allegation, this information is only considered at the sanction stage of the process and is not shared until then.

## Investigation

All investigations are thorough, reliable, impartial, prompt, and fair. They involve interviewing all available, relevant Parties and witnesses, obtaining Relevant Evidence, and identifying sources of expert information, as necessary.

After an interview, Parties and witnesses will be asked to verify the accuracy of the recording, transcript, or summary of their interview. They may submit changes, edits, or clarifications. If the Parties or witnesses do not respond within the time period designated for verification, objections to the accuracy of the recording, transcript, or summary will be deemed to have been waived, and no changes will be permitted.

STC may consolidate Complaints against more than one Respondent, or by more than one Complainant against one or more Respondent(s), when the allegations arise from the same facts or circumstances or implicate a pattern, collusion, and/or other shared or similar actions.

Investigations involve the following:

- Determining the names of and contacting all involved Parties and potential witnesses to participate in an investigation interview
- Identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for the Parties and witnesses
- Providing written notification of the date, time, and location of all investigation meetings, including the expected participants and purpose
- Conducting any necessary follow-up interviews with Parties or witnesses
- Providing the Parties and witnesses an opportunity to verify the accuracy of either a summary or transcript of their interview(s)
- Soliciting the names of suggested witnesses and questions each party wishes to have asked of another party or witness

- Writing a Draft Investigation Report that gathers, assesses, and synthesizes the evidence, accurately summarizes the investigation and party and witness interviews, and provides all Relevant Evidence
- Compiling a Directly Related Evidence File
- Providing the Parties and their respective Advisors an electronic or hard copy of the Draft Investigation Report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported misconduct, including evidence upon which STC does not intend to rely in reaching a determination, for a ten (10)-business-day review and comment period so that each party may meaningfully respond to the evidence. The Parties may elect to waive the full ten (10) days.
- Incorporating any new, Relevant Evidence and information obtained through the Parties' review of the Draft Investigation Report and any follow-up meetings into the Final Investigation Report
- Responding in writing (typically within the Final Investigation Report) to the relevant elements of the Parties' responses to the Draft Investigation Report.
- Sharing the Final Investigation Report with the Compliance Officer/Title IX Coordinator for their review and feedback
- Providing the Compliance Officer/Title IX Coordinator with the Final Investigation Report and Directly Related Evidence File

## Referral for Hearing

Provided that the Formal Complaint is not resolved through Informal Resolution, once the Final Investigation Report is shared with the Parties, the Compliance Officer/Title IX Coordinator will refer the matter for a hearing.

The hearing cannot be held less than ten (10) business days from the conclusion of the investigation – when the Final Investigation Report is transmitted to the Parties and the Decision-maker – unless all Parties and the Decision-maker agree to an expedited timeline.

The Compliance Officer/Title IX Coordinator will select an appropriate Decision-maker from the Resolution Process Pool and provide a copy of the Final Investigation Report and the file of Directly Related Evidence.

## Hearing Decision-maker

The Decision-maker will not have had any previous involvement with the Formal Complaint. The Compliance Officer/Title IX Coordinator may elect to have an alternate from the Resolution Process Pool sit in throughout the hearing process if a substitute is needed for any reason.

Those who have served as Investigators will be witnesses in the hearing and therefore may not serve as Decision-makers. Those who are serving as Advisors for any party may not serve as Decision-makers in that matter.

The Title IX Coordinator may not serve as a Decision-maker in the matter but may serve as an administrative facilitator of the hearing if their previous role(s) in the matter do not create a conflict of interest. Otherwise, a designee may fulfill the facilitator role. The hearing will convene at a time and venue determined by the Compliance Officer/Title IX Coordinator.

## Live Hearing Requirements

The following provisions apply to a live hearing:

- **Hearing Venue Options and Recordings.** The live hearing may occur in person or via video technology. The Decision-maker and Parties must be able to simultaneously see and hear a party or witness while that person is speaking. Both options are considered fair and equitable. Alternative arrangements may also be made at the Compliance Officer/Title IX Coordinator's discretion.
  - The Parties may make a request to the Compliance Officer/Title IX Coordinator that the hearing be held in person or via video technology, but they must do so at least three (3) business days prior to the hearing. The Compliance Officer/Title IX Coordinator retains discretion to determine whether the hearing will occur in person or via video technology.
  - All hearings will be recorded, and Parties may request a copy of the recording from the Compliance Officer/Title IX Coordinator following the live hearing.
  - No unauthorized recordings are permitted.
- **Scheduling.** Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to the Policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term, including during the summer, as needed, to meet STC's resolution timeline and ensure a prompt resolution. Employees, including Parties and witnesses, who do not have 12-month contracts are still expected to participate in Formal Grievance Processes that occur during months between contracts.
- **Hearing Participants.** Persons who may be present for a hearing include the Decision-maker, hearing facilitator, Investigator(s), the Parties and their Advisors, anyone providing authorized accommodations, interpretation, and/or assistive services, and anyone else deemed necessary by the Decision-maker. Witnesses are present only during their portion of the testimony.
- **Advisors.** The Parties may have the assistance of an Advisor of their choice at the hearing or can request that STC appoint a trained Advisor for them. Appointed Advisors are not attorneys. If a party wishes to have an attorney as their Advisor, they must locate and pay for that attorney themselves.
  - During the pre-hearing meeting and live hearing, Parties may only be accompanied by their Advisor. No other persons (e.g., additional support persons, advisors, friends, family) may accompany, attend, or listen in on the hearing unless explicitly authorized by the Compliance Officer/Title IX Coordinator, with each party being provided the same opportunity.
  - Parties and Advisors are permitted to have their phones and a laptop or tablet, but these should only be used during the hearing in a manner consistent with the Policy.

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- During the hearing, all questions that a party wishes to ask must be posed by the Advisor, not the Parties.
- If the party does not have an Advisor, the Compliance Officer/Title IX Coordinator will provide the party with an Advisor for the purpose of Advisor-conducted questioning.
- **Impact Statements.** Each party may submit an impact and/or mitigation statement to the Compliance Officer/Title IX Coordinator that the Decision-maker will review during any sanction determination.
  - Upon receipt of an impact and/or mitigation statement, the Compliance Officer/Title IX Coordinator will review the impact/mitigation statement to determine whether any immediate needs exist.
  - The Compliance Officer/Title IX Coordinator will only provide the impact statements to the Decision-maker if the Decision-maker determines that the Policy has been violated. When the Compliance Officer/Title IX Coordinator shares the impact statements with the Decision-maker, they will also be shared with the Parties.
- **Disability Accommodations and Other Assistance.** Parties should contact the Compliance Officer/Title IX Coordinator at least three (3) business days prior to the hearing to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, if possible.
- **Conflicts of Interest or Bias.** The Decision-maker must not have a bias for or against Complainants or Respondents generally or the individual Complainant or Respondent involved in the Formal Complaint.
  - The Decision-maker must recuse themselves if such bias or conflict of interest exists.
  - If the Decision-maker believes there is possible conflict of interest or bias, they will consult with the Compliance Officer/Title IX Coordinator about possible recusal or removal.
  - The Parties may raise challenges that the Decision-maker is biased or has a conflict of interest. The Parties must raise challenges with the Compliance Officer/Title IX Coordinator within two (2) business days of receiving the hearing notice.
  - The Compliance Officer/Title IX Coordinator will only remove and replace a Decision-maker in situations of demonstrated bias or conflicts of interest. Perceptions of bias or conflict are not sufficient to cause removal.
  - If a Decision-maker recuses themselves as the result of a conflict of interest or bias, or is removed, the Compliance Officer/Title IX Coordinator will promptly appoint a new Decision-maker who does not have a conflict of interest or bias and notify the Parties accordingly.
- **Evidence Provided to Decision-maker and Parties.**
  - The Decision-maker will be provided electronic copies of the Final Investigation Report and all relevant but not impermissible evidence, including the names of all Parties, witnesses, and Advisors, at least ten (10) business days in advance of the hearing.
  - The Parties will be provided with electronic copies of all the materials provided to the Decision-maker as part of the hearing notice, unless those materials have already been provided.<sup>23</sup>

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<sup>23</sup> Hard-copy materials may be provided upon request to the Compliance Officer/Title IX Coordinator. The Final Investigation Report and Relevant Evidence may be shared using electronic means that preclude downloading, forwarding, or otherwise sharing.

## Hearing Notice

The Compliance Officer/Title IX Coordinator will send the Parties a notice of hearing letter no less than ten (10) business days prior to the hearing. Once emailed and/or received in-person, notice is presumptively delivered. The notice includes:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable hearing procedures, and a statement of the potential sanctions/responsive actions that could result
- The time, date, and location of the hearing
- A description of any technology that will be used to facilitate the hearing
- Relevant information regarding hearing logistics, pre-hearing meetings, the Final Investigation Report, the Parties and witnesses participating in the hearing, the identity of the Decision-maker, details related to questioning, the role of Advisors, impact/mitigation statements, and how to request disability accommodations or other assistance

## Witness Participation

Witnesses are encouraged to participate in, and make themselves reasonably available for, the hearing. They may participate in-person or via video technology that allows the Decision-maker and the Parties to see and hear the witness while that person is speaking. Witnesses are not permitted to be accompanied by an Advisor without the Compliance Officer/Title IX Coordinator's express permission.

The Compliance Officer/Title IX Coordinator will notify all witnesses of their requested participation in the hearing at least five (5) business days prior to the hearing. Witnesses will be present for the hearing only during their testimony.

If any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence. For compelling reasons, the Compliance Officer/Title IX Coordinator may reschedule the hearing.

Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator(s), unless:

- All Parties and the Decision-maker assent to the new witness's participation in the hearing without remanding the Formal Complaint back to the Investigator,
- The Decision-maker deems the evidence presented by the new witness to be relevant and not information already established in the record, and
- The witness's late involvement was not the result of bad faith by the witness, the Parties, or others.

If the above criteria are not met, but the witness's evidence is deemed relevant and not duplicative, the Decision-maker may, at their discretion, engage in any of the following actions:

- Delay the hearing
- Provide the Parties with at least five (5) business days to review the relevant portions of the new witness's statements, if such statements are submitted
- Remand the Formal Complaint back to the Investigator for further investigation or verification
- Allow the Parties to review and comment on the testimony of the new witness<sup>24</sup>

If the evidence is deemed not relevant, the Decision-maker may proceed with the hearing absent the new witness's participation.

## Pre-Hearing Meetings

The Decision-maker will offer to convene pre-hearing meeting(s) with the Parties and their Advisors to familiarize them with the hearing process and invite them to submit the questions or topics they wish to ask or discuss at the hearing. This allows the Decision-maker to consider their relevance ahead of time to avoid any improper evidentiary introduction in the hearing or to provide recommendations for more appropriate phrasing.

However, this advance review opportunity does not preclude the Advisors from asking a question for the first time at the hearing or from asking for a reconsideration on a Decision-maker's pre-hearing decision based on any new information or testimony offered at the hearing. The Decision-maker will consider arguments that evidence identified as relevant in the Final Investigation Report is, in fact, not relevant. Similarly, evidence identified by the Investigator(s) as directly related but not relevant may be argued to be relevant. The Decision-maker will document and share their rationale for any evidence or question exclusion or inclusion, if any, at a pre-hearing meeting with each party.

The Decision-maker will work with the Parties to finalize a witness list for the hearing, and the Compliance Officer/Title IX Coordinator will notify any witnesses of the hearing's logistics. The Decision-maker, **only** with the agreement of all Parties, may decide in advance of the hearing that certain witnesses do not need to be present if their testimony can be adequately summarized by the Investigator(s) in the Final Investigation Report or during the hearing, and their presence is not essential to assess their credibility.

Pre-hearing meeting(s) will not be recorded. The pre-hearing meetings will typically be conducted as separate meetings with each party/Advisor, and can be done remotely, or as a written communication exchange. The Decision-maker will work with the Parties to establish the format and timing of the meetings and will circulate a summary of any rulings made to ensure all Parties and Advisors are aware.

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<sup>24</sup> 34 C.F.R. § 668.46(k)(3)(B)(3) requires "timely and equal access to the accuser, the accused, and appropriate officials to any information that will be used during informal and formal disciplinary meetings and hearings."

## Hearing Procedures

### Evidentiary Considerations

The Parties must provide all evidence to the Investigator(s) prior to completion of the Final Investigation Report. Evidence offered after that time will be evaluated by the Decision-maker for relevance. If deemed relevant, the Parties and Decision-maker must agree to admit it into the record. If the evidence is deemed not relevant, the Decision-maker may proceed with the hearing absent the new evidence.

The new relevant evidence will be admitted to the record if:

- All Parties and the Decision-maker assent to the new evidence being included in the hearing without remanding the Formal Complaint back to the Investigator,
- The evidence is not duplicative of evidence already in the record, and
- The new evidence was either not reasonably available prior to the conclusion of the Final Investigation Report, or the failure to provide it in a timely manner was not the result of bad faith by the Parties, witnesses, or others.

If the above criteria are not met, but the evidence is deemed materially relevant and not duplicative, the Decision-maker may, at their discretion, engage in any of the following actions:

- Delay the hearing
- Provide the Parties with at least five (5) business days to review the relevant evidence
- Remand the Formal Complaint back to the Investigator for further investigation or analysis
- Allow the Parties time to review and comment on the new evidence

If the evidence is deemed not relevant, the Decision-maker may proceed with the hearing without allowing the new evidence.

### Collateral Misconduct

The Decision-maker has the authority to hear and make determinations on all allegations of Discrimination, Harassment, Retaliation, and Other Prohibited Conduct under the Policy and may also hear and make determinations on any additional alleged collateral misconduct that occurred in concert with the Discrimination, Harassment, Retaliation, or Other Prohibited Conduct, even though those collateral allegations may not specifically fall within the Policy.

### Joint Hearings

In Complaints involving more than one Respondent and/or involving more than one Complainant accusing the same person of substantially similar conduct, the default procedure will be to hear the allegations jointly.

However, the Compliance Officer/Title IX Coordinator may permit the investigation and/or hearings pertinent to each Respondent or Formal Complaint to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent and/or for each Formal Complaint with respect to each alleged policy violation.

## Introductions and Hearing Procedure Explanation

The Decision-maker will:

- Explain the hearing procedures
- Introduce the participants
- Answer any procedural questions prior to and as they arise throughout the hearing

## Investigator Presentation of Final Investigation Report

The Investigator(s) will present a summary of the Final Investigation Report, including a review of the facts that are contested and those that are not. The Investigator may be questioned first by the Decision-maker and then by the Parties. The Investigator may attend the duration of the hearing or be excused after their testimony at the Decision-maker's discretion.

## Testimony and Questioning

The Parties and witnesses may provide relevant information in turn, beginning with the Complainant's opening statement, then the Respondent's, and then questioning in the order determined by the Decision-maker. The Decision-maker will facilitate questioning of the Parties and witnesses first by the Decision-maker and then by the Parties through their Advisors.

All questions are subject to the Decision-maker's relevance determination. The Advisor will pose the proposed question orally, electronically, or in writing (orally is the default, but other means of submission may be permitted). The proceeding will pause to allow the Decision-maker to consider the question (and state it if it has not already been stated aloud), and the Decision-maker will determine whether the question will be permitted, disallowed, or rephrased. The Decision-maker will explain any decision to exclude a question as not relevant, or to reframe it for relevance.

The Decision-maker will limit or disallow questions they deem not appropriate on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), seek or pertain to impermissible evidence, or are abusive and has the final say on all questions and relevance determinations. The Decision-maker may consult with legal counsel on any admissibility questions.

If the Parties raise an issue of bias or conflict of interest of an Investigator or Decision-maker at the hearing, the Decision-maker may elect to address those issues, consult with legal counsel, refer them to the Compliance Officer/Title IX Coordinator, and/or preserve them for appeal. If bias is not an issue at the hearing, the Decision-maker should not permit irrelevant questions that probe for Investigator bias.

## Refusal to Submit to Questioning and Inferences

Any party or witness may choose not to offer evidence and/or answer questions at the hearing, either because they do not attend the hearing, or because they attend but refuse to participate in some or all questioning. The Decision-maker can only rely on the available Relevant Evidence in making a Final Determination. The Decision-maker may not draw any inference **solely** from a party's or witness's absence from the hearing or refusal to answer any or all questions. Typically, after brief opening statements, the order of questioning will be questions from the Decision-maker, questions from the party's own Advisor, then questions from the other Parties' Advisors. The same order will be used for questioning of witnesses, who do not typically make opening statements. The Parties then make brief closing statements, and then the hearing transitions into closed session for deliberation.

An Advisor may not be called as a witness at a hearing to testify to what their advisee has told them during their role as an Advisor unless the party being advised consents to that information being shared.

## Hearing Recordings

STC records hearings (but not deliberations) for purposes of review in the event of an appeal. No unauthorized audio or video recording of any kind is permitted during the hearing.

The Decision-maker, the Parties, their Advisors, Appeal Decision-makers, and other appropriate STC officials will be permitted to review the recording or review a transcript of the recording upon request to the Compliance Officer/Title IX Coordinator. No unauthorized disclosure, including sharing, copying, or distribution of the recording or transcript, is permitted.

## Deliberation and Determination

After closing statements from the Parties, the Decision-maker will deliberate in closed session to determine whether the Respondent is responsible for the alleged Policy violation(s) based on the standard of evidence. If a panel is used, a simple majority vote is required to determine the Finding. Deliberations are not recorded.

When there is a Finding of responsibility on one or more of the allegations, the Decision-maker may then consider the previously submitted party impact and/or mitigation statement(s) in determining appropriate sanction(s). The Compliance Officer/Title IX Coordinator will ensure that each of the Parties has an opportunity to review any submitted impact and/or mitigation statement(s) once they are submitted.

The Decision-maker will also review any pertinent conduct history provided and will determine the appropriate sanction(s).

The Decision-maker will then prepare a written statement detailing all Findings and Final Determinations, the rationale(s) explaining the decision(s), the evidence used in support of the

determination(s), the evidence not relied upon in the determination(s), any credibility assessments, and any sanction(s) and rationales explaining the sanction(s) and will deliver the statement to the Compliance Officer/Title IX Coordinator.

This statement must be submitted to the Compliance Officer/Title IX Coordinator within five (5) business days of the end of deliberations unless the Compliance Officer/Title IX Coordinator grants an extension. If an extension is granted, the Compliance Officer/Title IX Coordinator will notify the Parties.

## Notice of Outcome

The Compliance Officer/Title IX Coordinator will provide the Parties with a written outcome notification within ten (10) business days of the conclusion of the Formal Grievance Process. The outcome notification will specify the Finding for each alleged Policy violation, any sanction(s) that may result, which STC is permitted to share pursuant to federal or state law, and a detailed rationale, written by the Decision-maker, supporting the Findings to the extent STC is permitted to share under federal or state law.

The notification will also detail the Parties' equal rights to appeal, the grounds for appeal, the steps to request an appeal, and when the determination is considered final if no party appeals.

The Compliance Officer/Title IX Coordinator will provide the Parties with the outcome notification simultaneously, or without significant time delay between notifications. The written outcome notification may be delivered by one or more of the following methods: in person, mailed to the Parties' local or permanent address as indicated in official STC records, or emailed to the Parties' STC-issued or other approved email account. Once emailed and/or received in person, the outcome notification is presumptively delivered.

## Rights of the Parties (See [Appendix E](#))

## Sanctions

Factors the Decision-maker may consider when determining sanctions and responsive actions include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- The need for sanctions/responsive actions to bring an end to the Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct
- The need for sanctions/responsive actions to prevent the future recurrence of Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct

- The need to remedy the effects of Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct on the Complainant and the community
- The impact on the Parties
- The Respondent's acknowledgement of responsibility or contrition
- Any other information deemed relevant by the Decision-maker

The sanctions will be implemented as soon as is feasible once a Determination is final, either upon the outcome of any appeal or the expiration of the window to appeal, without an appeal being requested.

The sanctions described in the Procedures are not exclusive of, and may be in addition to, other actions taken, or sanctions imposed, by external authorities.

## Student Sanctions

The following are the common sanctions that may be imposed upon Students singly or in combination:

- *Reprimand*: A formal statement that the conduct was unacceptable and a warning that further violation of any STC policy, procedure, or directive will result in more severe sanctions/responsive actions
- *Required Counseling*: A mandate to meet with and engage in either STC-sponsored or external counseling to better comprehend the misconduct and its effects
- *Restrictions*: A Student may be restricted in their activities, including, but not limited to, being restricted from locations, programs, participation in certain activities or extracurriculars, study abroad, or holding leadership roles in student organizations
- *Probation*: An official sanction for violation of STC policy, providing for more severe disciplinary sanctions if the Student is found in violation of any STC policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.
- *Suspension*: Separation from STC, or one or more of its facilities, for a defined period of time, typically not to exceed two (2) years, after which the Student is eligible to return. Eligibility may be contingent upon satisfaction of specific conditions noted at the time of suspension, on successfully applying for readmission, or upon a general condition that the Student is eligible to return if STC determines it is appropriate to re-enroll/readmit the Student. The Student is typically required to vacate STC property within 24 hours of notification of the action, though this deadline may be extended at the discretion of the Compliance Officer/Title IX Coordinator or other appropriate official. During a STC-wide suspension, the Student is banned from STC property, functions, events, and activities unless they receive prior written approval from an appropriate STC official. This sanction may be enforced with a trespass action, as necessary.
- *Expulsion*: Permanent separation from STC. The Student is banned from STC property, and the Student's presence at any STC-sponsored activity or event is prohibited. This action may be enforced with a trespass action, as necessary.
- *Withholding Diploma*: STC may withhold a Student's diploma for a specified period of time and/or deny a Student participation in commencement activities as a sanction if the Student is found responsible for violating the Policy

- *Revocation of Degree:* While very rarely exercised, STC reserves the right to revoke a degree previously awarded by STC for fraud, misrepresentation, and/or other violation of STC policies, procedures, or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation
- *Other Actions:* In addition to, or in place of, the above sanctions, STC may assign any other sanctions as deemed appropriate

## Student Organization Sanctions

The following are the common sanctions that may be imposed upon student groups organizations singly or in combination:

- *Warning:* A formal statement that the conduct was unacceptable and a warning that further violation of any STC policy, procedure, or directive will result in more severe sanctions/responsive actions
- *Probation:* An official sanction for violation of STC policy, providing for more severe disciplinary sanctions if the group or organization is found in violation of any STC policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social and event privileges, denial of STC funds, ineligibility for honors and awards, restrictions on new member recruitment, no-contact orders, and/or other measures deemed appropriate.
- *Suspension:* Termination of student group or organization recognition and/or STC support for a defined period of time not to exceed two (2) years and/or until specific criteria are met. During the suspension period, a student group or organization may not conduct any formal or informal business or participate in STC-related activities, whether they occur on or off campus. Re-recognition is possible but not guaranteed and will only be considered after the end of the suspension period and based on meeting all re-recognition criteria and obtaining clearance from STC.
- *Expulsion:* Permanent termination of student group or organization recognition and revocation of the privilege to congregate and conduct business on campus as an organization for any reason
- *Loss of Privileges:* Restricted from accessing specific STC privileges for a specified period of time
- *Other Actions:* In addition to, or in place of, the above sanctions, STC may assign any other sanctions as deemed appropriate

## Employee Sanctions/Responsive/Corrective Actions

Responsive actions for an Employee who has engaged in Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct include:

- *Verbal or Written Warning*
- *Performance Improvement Plan/Management Process*
- *Enhanced Supervision, Observation, or Review*
- *Required Counseling*

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- *Required Training or Education*
- *Probation*
- *Denial of Pay Increase/Pay Grade*
- *Loss of Oversight or Supervisory Responsibility*
- *Demotion*
- *Transfer*
- *Shift or schedule adjustments*
- *Reassignment*
- *Delay of (or referral for delay of) Tenure Track Progress*
- *Assignment to a New Supervisor*
- *Restriction of Stipends, Research, and/or Professional Development Resources*
- *Suspension/Administrative Leave with Pay*
- *Suspension/Administrative Leave without Pay*
- *Termination*
- *Other Actions: In addition to, or in place of, the above sanctions/responsive actions, STC may assign any other responsive actions as deemed appropriate*

## Withdrawal or Resignation Before Complaint Resolution

### Students

Should a Respondent decide not to participate in the Formal Grievance Process, the process proceeds absent their participation to a reasonable resolution. If a Student Respondent withdraws from STC, the Formal Grievance Process typically ends with a dismissal, as STC has lost primary disciplinary jurisdiction over the withdrawn Student. However, STC may continue the Formal Grievance Process when, at the discretion of the Compliance Officer/Title IX Coordinator, doing so may be necessary to address safety and/or remedy any ongoing effects of the alleged Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct.

Regardless of whether the Formal Complaint is dismissed or pursued to completion of the Formal Grievance Process, STC will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s), and any ongoing effects of the alleged Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct.

When a Student withdraws or takes a leave of absence while the process is pending, the Student may not return to STC in any capacity until the Formal Complaint is resolved and any sanctions imposed are satisfied. If the Student indicates they will not return, the Compliance Officer/Title IX Coordinator has

discretion to dismiss the Formal Complaint and bar the Student from returning. The Registrar, Office of Admissions, and HR may be notified accordingly.

If the Student Respondent takes a leave of absence for a specified period of time (e.g., one semester or term), the Formal Grievance Process may continue remotely. If found in violation, that Student is not permitted to return to STC unless and until all sanctions, if any, have been satisfied.

## Employees

Should an Employee Respondent decide not to participate in the Formal Grievance Process, the process proceeds absent their participation to a reasonable resolution. If an Employee Respondent leaves their employment with STC with unresolved allegations pending, the Formal Grievance Process typically ends with dismissal, as STC has lost primary disciplinary jurisdiction over the former Employee. However, STC may continue the Formal Grievance Process when, at the discretion of the Compliance Officer/Title IX Coordinator, doing so may be necessary to address safety and/or remedy any ongoing effects of the alleged Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct.

Regardless of whether the Formal Complaint is dismissed or pursued to completion of the Formal Grievance Process, STC will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s), and any ongoing effects of the alleged Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct.

When an Employee resigns and the Formal Complaint is dismissed, the Employee may not return to STC in any capacity. HR and Administration will be notified accordingly. A note will be placed in the Employee's file that they resigned with allegations pending and are not eligible for academic admission or rehire with STC. The records retained by the Compliance Officer/Title IX Coordinator will reflect that status.

## Appeal of the Final Determination

The Compliance Officer/Title IX Coordinator will designate an Appeal Decision-maker from the Resolution Process Pool, or other trained internal or external individuals, to hear the appeal. No Appeal Decision-maker will have been previously involved in the Formal Grievance Process for the Formal Complaint. If a panel is used, the Compliance Officer/Title IX Coordinator will designate a voting chair.

### Appeal Grounds

Appeals are limited to the following grounds:

- 1) A procedural irregularity affected the outcome of the matter.
- 2) There is new evidence that was not reasonably available at the time the determination regarding responsibility was made that could affect the outcome of the matter

- 3) The Compliance Officer/Title IX Coordinator, Investigator(s), or Decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter
- 4) The Decision-maker's Final Determination is substantially contrary to the weight of the evidence in the record (applicable to sanctions of suspension, expulsion, or termination-level offenses, only)
- 5) The sanctions fall outside the range of sanctions designated for this offense, considering the cumulative conduct/disciplinary record of the Respondent (applicable to sanctions of suspension, expulsion, or termination-level offenses, only)

## Appeal Request

Any party may submit a written appeal request to the Compliance Officer/Title IX Coordinator within five (5) business days of the delivery of the notice of outcome.

The appeal request will be forwarded to the Appeal Decision-maker for consideration to determine if the request meets the appeal grounds (a Review for Standing). This is not a review of the merits of the appeal, but solely a determination as to whether the request could reasonably be construed to meet the grounds and is timely filed.

If the appeal request does not provide information that meets the grounds in the Procedures, the request will be denied by the Appeal Decision-maker, and the Parties and their Advisors will be simultaneously notified in writing of the denial and the rationale.

If any of the information in the appeal request meets the grounds in the Procedures, then the Appeal Decision-maker will notify all Parties and their Advisors, the Compliance Officer/Title IX Coordinator, and, when appropriate, the Investigator(s) and/or the original Decision-maker.

All other Parties and their Advisors, the Compliance Officer/Title IX Coordinator, and, when appropriate, the Investigator(s) and/or the Decision-maker will be provided a copy of the appeal request with the approved grounds and then be given five (5) business days to submit a response to the portion of the appeal that was approved and involves them. The Appeal Decision-maker will forward all responses, if any, to all Parties for review and comment.

The non-appealing party (if any) may also choose to appeal at this time. If so, that appeal request will be reviewed by the Appeal Decision-maker to determine if it meets the grounds in the Procedures and will either be approved or denied. If approved, it will be forwarded to the party who initially requested an appeal, the Compliance Officer/Title IX Coordinator, and the Investigator(s) and/or original Decision-maker, as necessary, who will submit their responses, if any, within seven (7) business days. Any such responses will be circulated for review and comment by all Parties. If denied, the Parties and their Advisors will be notified in writing.

No party may submit any new appeal request after this time period. The Appeal Decision-maker will collect any additional information needed and all documentation regarding the approved appeal grounds, and the subsequent responses will be shared with the Appeal Decision-maker, who will promptly render a decision.

## Appeal Determination Process

In most circumstances, appeals are confined to a review of the written documentation or record of the original determination and pertinent documentation regarding the specific appeal grounds. The Appeal Decision-maker will deliberate as soon as is practicable and discuss the merits of the appeal.

Appeal decisions are to be deferential to the original determination, making changes to the Finding/Final Determination only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so. All decisions are made by majority vote and apply the preponderance of the evidence standard of evidence.

An appeal is not an opportunity for the Appeal Decision-maker to substitute their judgment for that of the original Decision-maker merely because they disagree with the Finding and/or sanction(s).

The Appeal Decision-maker may consult with the Compliance Officer/Title IX Coordinator and/or legal counsel on questions of procedure or rationale, for clarification, if needed. The Compliance Officer/Title IX Coordinator will maintain documentation of all such consultation.

## Appeal Outcome

An appeal may be granted or denied. Appeals that are granted should normally be remanded (or partially remanded) to the original Investigator(s) and/or Decision-maker with corrective instructions for reconsideration. In rare circumstances where an error cannot be cured by the original Investigator(s) and/or Decision-maker or the Compliance Officer/Title IX Coordinator (as in cases of bias), the Appeal Decision-maker may order a new investigation and/or a new hearing with new Resolution Process Pool members serving in the Investigator and Decision-maker roles.

A notice of appeal outcome letter will be sent to all Parties simultaneously, or without significant time delay between notifications. The appeal outcome letter will specify the Finding on each appeal ground, any specific instructions for remand or reconsideration, all sanction(s) that may result which STC is permitted to share according to federal or state law, and the rationale supporting the essential Findings to the extent STC is permitted to share under federal or state law.

Written notification may be delivered by one or more of the following methods: in person, mailed to the Parties' local or permanent address as indicated in official institutional records, or emailed to the Parties' STC-issued email or other approved account. Once emailed and/or received in person, the appeal outcome letter will be presumptively delivered.

Once an appeal is decided, the outcome is final and constitutes the Final Determination; further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new determination). When appeals result in no change to the finding or sanction, that decision is final. When an appeal results in a new Finding or sanction, that Finding or sanction can be appealed one final time on the grounds listed above and in accordance with the Procedures.

If a remand results in a new Finding or sanction that is different from the original Finding or sanction, that new Finding or sanction can be appealed, once, on any of the available appeal grounds.

## Sanction Status During the Appeal

Any sanctions imposed as a result of the Final Determination are stayed (i.e., not implemented) during the appeal process, and supportive measures may be maintained or reinstated until the appeal determination is made.

If any of the sanctions are to be implemented immediately post-determination, but pre-appeal, then the emergency removal and interim suspension procedures (detailed above) for a show cause meeting on the justification for doing so must be permitted within two (2) business days of implementation. Long-Term Remedies/Other Actions

Following the conclusion of the Formal Grievance Process, and in addition to any sanctions implemented or Informal Resolution terms, the Compliance Officer/Title IX Coordinator may implement additional long-term remedies or actions with respect to the Parties and/or STC community that are intended to stop the Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct, remedy the effects, and prevent recurrence.

These remedies/actions may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Course and registration adjustments, such as retroactive withdrawals
- Education to the individual and/or the community
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification and/or training
- Provision of transportation assistance
- Implementation of long-term contact limitations between the Parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the Compliance Officer/Title IX Coordinator's discretion, the Parties may be provided certain long-term support or measures even if no Policy violation is found.

When no Policy violation is found, the Compliance Officer/Title IX Coordinator will address any remedies STC owes the Respondent to ensure no effective denial of educational access.

STC will maintain the confidentiality of any long-term remedies/actions/measures, provided confidentiality does not impair STC's ability to provide these services.

## Failure to Comply with Sanctions and/or Responsive Actions

All Respondents are expected to comply with the assigned sanctions, responsive actions, corrective actions, and/or Informal Resolution terms within the timeframe specified by the final Decision-maker, including the Appeal Decision-maker or the Informal Resolution agreement.

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from STC.

Supervisors are expected to enforce completion of sanctions/responsive actions for their Employees.

A suspension imposed for non-compliance with sanctions will only be lifted when compliance is achieved to the Compliance Officer/Title IX Coordinator's satisfaction.

## Recordkeeping

For a period of at least seven (7) years following the conclusion of the Formal Grievance Process, STC will maintain records of:

- 1) Each Discrimination, Harassment, Retaliation, and Other Prohibited Conduct Formal Grievance Process, including any Final Determination regarding responsibility or appeal, and any audio or audiovisual recording or transcript required under federal regulation
- 2) Any disciplinary sanctions imposed on the Respondent
- 3) Any supportive measures provided to the Parties and any remedies provided to the Complainant or the community designed to restore or preserve equal access to STC's Education Program or Activity
- 4) Any appeal and the result therefrom
- 5) Any Informal Resolution and the result therefrom
- 6) All materials used to train the Compliance Officer/Title IX Coordinator, Title IX Coordinator and designees, Investigators, Decision-makers, Appeal Decision-makers, Informal Resolution Facilitators, and any person who is responsible for implementing STC's resolution processes. STC will make these training materials publicly available on STC's website
- 7) Any other actions taken in response to a report or Formal Complaint including:
  - a. The basis for all conclusions that the response was not deliberately indifferent
  - b. Any measures designed to restore or preserve equal access to STC's Education Program or Activity

STC will also maintain any and all records in accordance with federal and state laws.

## Disability Accommodations

STC is committed to providing reasonable accommodations and support to qualified Students, Employees, or others with disabilities to ensure equal access to STC's resolution processes.

Anyone needing such accommodations or support should contact the Compliance Officer/Title IX Coordinator, who will work with the Accessibility Services as appropriate to review the request and, in consultation with the person requesting the accommodation, determine which accommodations are appropriate and necessary for full process participation.

## Other Support

STC will address other reasonable requests for support for the Parties and witnesses, including:

- Language services/Interpreters
- Access and training regarding use of technology throughout a resolution process
- Other support as deemed reasonable and necessary to facilitate participation in a resolution process

## ADMINISTRATIVE RESOLUTION FOR ALLEGED VIOLATIONS OF THE EQUAL OPPORTUNITY, HARASSMENT, AND NONDISCRIMINATION POLICY (KNOWN AS PROCESS “B”)

### Initial Assessment

The Compliance Officer/Title IX Coordinator conducts an initial assessment, typically within five (5) business days of receiving Notice.<sup>25</sup> The initial assessment typically includes:

- Assessing whether the reported conduct may reasonably constitute a Policy violation.
- Determining whether STC has jurisdiction over the reported conduct
- Offering and coordinating supportive measures for the Parties
- Notifying the Complainant, or the person who reported the allegation(s), of the available resolution options
- Determining whether the Complainant wishes to file a Formal Complaint.
- Notifying the Respondent of the available resolution option if a Formal Complaint is made

#### ***Helping a Complainant to Understand Resolution Options***

If the Complainant indicates they wish to initiate the Administrative Resolution Process, the Compliance Officer/Title IX Coordinator will work with the Complainant to determine which resolution option they want to pursue. The Compliance Officer/Title IX Coordinator will seek to abide by the wishes of the Complainant but may have to take an alternative approach depending on their analysis of the situation.

Upon receiving a complaint that falls under the Administrative Resolution Process, the Compliance Officer/Title IX Coordinator will initiate an investigation.

If any party indicates that they want to pursue an Informal Resolution option, the Compliance Officer/Title IX Coordinator will refer the matter to the appropriate individuals(s) if the Compliance Officer/Title IX Coordinator determines Informal Resolution is available and the other Parties consent to participate.

If the Complainant does not want any action taken, the Compliance Officer/Title IX Coordinator will consider that request, and in most circumstances no resolution process will be initiated (unless deemed necessary by the Compliance Officer/Title IX Coordinator), though the Complainant can elect to initiate one later, if desired.

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<sup>25</sup> If circumstances require, the Director of Human Resources or Compliance Officer/Title IX Coordinator will designate another person to oversee the resolution process should an allegation be made about the Compliance Officer/Title IX Coordinator or the Compliance Officer/Title IX Coordinator be otherwise unavailable, unable to fulfill their duties, or have a conflict of interest.

The Compliance Officer/Title IX Coordinator may consider elements such as patterns of behavior, predation, threats, violence, use of weapons, or involvement of minors in determining whether to initiate a resolution process.

### ***Compliance Officer/Title IX Coordinator Authority to Initiate the Administrative Resolution Process***

The Compliance Officer/Title IX Coordinator has ultimate discretion as to whether to pursue an Administrative Resolution Process and may consult with appropriate STC Employees, and/or conduct a violence risk assessment to aid their determination whether to initiate a complaint.

When the Compliance Officer/Title IX Coordinator initiates a complaint, they do not become the Complainant. The Complainant is the person who experienced the alleged misconduct. If the Compliance Officer/Title IX Coordinator declines to initiate a complaint, alternative processes may be available and can be explored with the Compliance Officer/Title IX Coordinator.

The process followed considers the Parties' preference but is ultimately determined at the Compliance Officer/Title IX Coordinator's discretion. If at any point during the initial assessment or investigation the Compliance Officer/Title IX Coordinator determines that reasonable cause does not support the conclusion that Respondent violated the Policy, the process will end, and the Parties will be notified.

The Complainant may request that the Compliance Officer/Title IX Coordinator review the reasonable cause determination and/or re-open the investigation. This decision lies in the sole discretion of the Compliance Officer/Title IX Coordinator, but the request is usually only granted in extraordinary circumstances.

## Interim Suspension

STC may interim suspend a Student accused of Discrimination, Harassment, Retaliation, or Other Prohibited Conduct upon receipt of Notice or at any time during the Administrative Resolution Process.

When an interim suspension is imposed, wholly or partially, the affected Student will be notified of the action, which will include a written rationale, and the option to challenge the interim suspension within two (2) business days of the notification. Upon receipt of a challenge, the Compliance Officer/Title IX Coordinator will meet with the student (and their Advisor, if desired) as soon as reasonably possible thereafter to allow them to show cause why the removal/action should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the interim suspension is appropriate, should be modified, or should be lifted. When this meeting is not requested within two (2) business days, objections to the interim suspension will be deemed waived. A Student can later request a meeting to show why they no longer pose a safety concern because the related conditions have changed. A Complainant and their Advisor may be permitted to participate in this meeting if the Compliance Officer/Title IX Coordinator determines it is fair for them to do so.

The Respondent may provide information, including expert reports, witness statements, communications, or other documentation for consideration prior to or during the meeting. When applicable, a Complainant may provide information to the Compliance Officer/Title IX Coordinator for review.

An interim suspension may be affirmed, modified, or lifted as a result of a requested review or as new information becomes available. The Compliance Officer/Title IX Coordinator will communicate the final decision in writing, typically within seven (7) business days of the review meeting.

## Placing an Employee on Leave

When the Respondent is an Employee, or a Student-Employee accused of misconduct in the course of their employment, existing provisions for interim action are typically applicable instead of the above emergency removal process.

## Counter-Complaints

STC is obligated to ensure that the Administrative Resolution Process is not abused for retaliatory purposes. Although STC permits the filing of counter-complaints, the Compliance Officer/Title IX Coordinator will use an initial assessment, described above, to assess whether the allegations in the counterclaim are made in good faith. When counter-complaints are not made in good faith, they will not be permitted. They will be considered potentially retaliatory and may constitute a Policy violation.

Counter-complaints determined to have been reported in good faith will be processed using the Administrative Resolution Process below. At the Compliance Officer/Title IX Coordinator's discretion, investigation of such claims may take place after resolution of the underlying initial allegations.

## Advisors in the Administrative Resolution Process

The Parties may each have an Advisor of their choice present with them for all meetings and interviews within the Administrative Resolution Process.

Choosing an Advisor who is also a witness in the process creates potential for bias and conflict of interest. A party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by the Decision-maker.

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. Parties are expected to provide the Compliance Officer/Title IX Coordinator with timely notification if they change Advisors. If a party changes Advisors, consent to share information with the previous Advisor is assumed to be terminated, and a release for the new Advisor must be submitted.

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Upon request, and at the Compliance Officer/Title IX Coordinator's discretion, the Parties may be permitted to have more than one Advisor. To ensure fairness, if one party is allowed another Advisor, the other party must be allowed one to as well.

As a public entity, STC fully respects and accords the Weingarten rights of Employees, meaning that for Parties who are entitled to union representation, STC will allow the unionized Employee to have their union representative (if requested by the party) as well as an Advisor of their choice present for all resolution-related meetings and interviews. To uphold the principles of fairness, the other party (regardless of union membership) will also be permitted to have two Advisors. Witnesses are permitted to have union representation or Advisors in resolution process interviews or meetings.

### Who Can Serve as an Advisor?

The Parties may each have an Advisor (friend, mentor, family member, attorney, or any other individual a party chooses) present with them for all meetings, interviews, and hearings within the resolution process. The Parties may select whomever they wish to serve as their Advisor as long as the Advisor is eligible and available.<sup>26</sup>

STC cannot guarantee equal advisory rights, meaning that if one party selects an Advisor who is an attorney, but the other party does not, or cannot afford an attorney, STC is not obligated to provide an attorney to advise that party.

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. Parties are expected to provide the Compliance Officer/Title IX Coordinator with timely notification if they change Advisors. If a party changes Advisors, consent to share information with the previous Advisor is assumed to be terminated, and a release for the new Advisor must be submitted.

STC may permit Parties to have more than one Advisor, or an Advisor and a support person, upon special request to the Compliance Officer/Title IX Coordinator. The decision to grant this request is at the Compliance Officer/Title IX Coordinator's sole discretion and will be granted equitably to all Parties.

If a party requests that all communication be made through their attorney Advisor instead of to the party, STC will agree to copy both the party and their Advisor on all communications.

### Advisor's Role in the Administrative Resolution Process

Advisors should help the Parties to prepare for each meeting and are expected to advise ethically, with integrity, and in good faith. Advisors may not provide testimony or speak on behalf of their advisee unless given specific permission to do so.

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<sup>26</sup> "Available" means the party cannot insist on an Advisor who simply doesn't have inclination, time, or availability. Also, the Advisor cannot have institutionally conflicting roles, such as being a Title IX administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions.

The Parties are expected to respond to questions on their own behalf throughout the Administrative Resolution Process. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any Administrative Resolution Process meeting or interview. For longer or more involved discussions, the Parties and their Advisors should ask for breaks to allow for private consultation.

### Records Shared with Advisors

Advisors are entitled to the same opportunity as their advisee to receive copies of the Draft and Final Investigation Reports. Parties will be asked to sign releases for STC to share materials with an Advisor.

Advisors are expected to maintain the confidentiality of the records STC shares with them. Accordingly, Advisors will be asked to sign Non-Disclosure Agreements (NDAs). STC may decline to share materials with any Advisor who has not executed the NDA. STC may restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by STC's confidentiality expectations.

### Advisor Expectations

STC generally expects an Advisor to adjust their schedule to allow them to attend STC meetings/interviews when planned, but STC may change scheduled meetings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay.

STC may also make reasonable provisions to allow an Advisor who cannot be present in person to attend a meeting/interview by telephone, video conferencing, or other similar technologies as may be convenient and available.

All Advisors are subject to the same STC policies and procedures, whether they are attorneys or not. Advisors are expected to advise without disrupting proceedings.

### Advisor Policy Violations

Any Advisor who oversteps their role as defined by the Policy, who shares information or evidence in a manner inconsistent with the Policy, or who refuses to comply with STC's established rules of decorum will be warned. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting/interview/hearing may be ended, or other appropriate measures implemented, including STC requiring the party to use a different Advisor. Subsequently, the Compliance Officer/Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.

## Resolution Options Overview

The Administrative Resolution Process is STC's primary resolution approach unless all Parties and STC agree to an Informal Resolution. The process considers the Parties' preferences but is ultimately determined at the Compliance Officer/Title IX Coordinator's discretion.

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Resolution proceedings are private. All persons present at any time during a resolution process are expected to maintain the privacy of the proceedings in accordance with the Policy.

## Informal Resolution

To initiate Informal Resolution, a Complainant or Respondent may make such a request to the Compliance Officer/Title IX Coordinator at any time prior to a Final Determination, or the Compliance Officer/Title IX Coordinator may offer the option to the Parties. STC will obtain voluntary, written confirmation that all Parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the Parties to participate in Informal Resolution.

Three approaches to Informal Resolution are detailed in this section.

- 1) **Supportive Resolution.** When the Compliance Officer/Title IX Coordinator can resolve the matter informally by providing supportive measures (only) designed to remedy the situation. Supportive Resolution involves only the party who opts for it.
- 2) **Accepted Responsibility.** When the Respondent accepts responsibility for violating Policy and accepts the recommended sanction(s), and the Complainant(s) and STC are agreeable to the resolution terms.
- 3) **Alternative Resolution.** When the Parties agree to resolve the matter through an alternative resolution mechanism (which could include, but is not limited to, mediation, shuttle negotiation, restorative practices, facilitated dialogue, etc.), as described below.

It is not necessary to pursue Informal Resolution first in order to pursue an Administrative Process. Any party participating in Informal Resolution can withdraw from the Informal Resolution Process at any time and initiate or resume the Administrative Resolution Process.

The Parties may agree, as a condition of engaging in Informal Resolution, on what statements made or evidence shared during the Informal Resolution process will not be considered in the Administrative Resolution Process should Informal Resolution not be successful.

If an investigation is already underway, the Compliance Officer/Title IX Coordinator has discretion to determine if an investigation will be paused, if it will be limited, or if it will continue during the Informal Resolution process.

Prior to implementing Informal Resolution, STC will provide the Parties with written notice of the reported misconduct and any sanctions (only in the case of Accepted Responsibility) or measures that may result from participating in such a process, including information regarding any records that will be maintained or shared by STC.

### Informal Resolution Approaches

#### **Supportive Resolution**

Most commonly offered once a complaint is filed (whereas supportive measures, as described in [Section 9](#) of the Equal Opportunity, Harassment, and Nondiscrimination Policy, are offered in response to Notice). The Compliance Officer/Title IX Coordinator will meet with the Complainant to determine reasonable supports that are designed to restore or preserve the Complainant's access to STC's education program and activity. Such supports can be modified as the Complainant's needs evolve over time or circumstances change. If the Respondent has received the NOIA, the Compliance Officer/Title IX Coordinator may also provide reasonable supports for the Respondent as deemed appropriate. This option is available when the Complainant does not want to engage the other resolution options, and the Compliance Officer/Title IX Coordinator does not believe there is a need to sign a complaint. At the discretion of the Compliance Officer/Title IX Coordinator, this resolution option can result in an agreement between the Complainant and STC that does not require assent from any other party, as long as it does not unduly burden any other party or function punitively with respect to them.

### **Accepted Responsibility**

The Respondent may accept responsibility for any or all of the alleged Policy violations at any point during the Administrative Resolution Process. If the Respondent indicates an intent to accept responsibility for **all** alleged Policy violations, the ongoing process will be paused, and the Compliance Officer/Title IX Coordinator will determine whether Informal Resolution is an option.

If Informal Resolution is available, the Compliance Officer/Title IX Coordinator will determine whether all Parties and STC are able to agree on responsibility, restrictions, sanctions, restorative measures, and/or remedies. If so, the Compliance Officer/Title IX Coordinator implements the accepted finding that the Respondent is in violation of STC Policy, implements agreed-upon restrictions and remedies, and determines the appropriate responses in coordination with other appropriate administrator(s), as necessary.

This resolution is not subject to appeal once all Parties indicate their written agreement to all resolution terms. When the Parties cannot agree on all terms of resolution, the Administrative Resolution Process will either begin or resume.

When a resolution is reached, the appropriate sanction(s) or responsive actions are promptly implemented to effectively stop the discrimination or harassment, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

### **Alternative Resolution**

The institution offers a variety of alternative resolution mechanisms to best meet the specific needs of the Parties and the nature of the allegations. Alternative resolution may involve agreement to pursue individual or community remedies, including targeted or broad-based educational programming or training; supported direct conversation or interaction with the Respondent(s); indirect action by the Compliance Officer/Title IX Coordinator or other appropriate STC officials; and other forms of resolution that can be tailored to the needs of the Parties. Some alternative resolution mechanisms will result in an agreed-upon outcome, while others are resolved through

dialogue. All Parties must consent to the use of an alternative resolution approach, and the Parties may, but are not required to, have direct or indirect contact during an alternative resolution process.

The Compliance Officer/Title IX Coordinator may consider the following factors to assess whether alternative resolution is appropriate, or which form of alternative resolution may be most successful for the Parties:

- The Parties' amenability to alternative resolution
- Likelihood of potential resolution, considering any power dynamics between the Parties
- The nature and severity of the alleged misconduct
- The Parties' motivation to participate
- Civility of the Parties
- Results of a violence risk assessment/ongoing risk analysis
- Respondent's disciplinary history
- Whether interim action is needed
- Skill of the alternative resolution facilitator with this type of Complaint
- Complaint complexity
- Emotional investment/capability of the Parties
- Rationality of the Parties
- Goals of the Parties
- Adequate resources to invest in alternative resolution (e.g., time, staff)

The Compliance Officer/Title IX Coordinator has the authority to determine whether alternative resolution is available or successful, to facilitate a resolution that is acceptable to all Parties, and/or to accept the Parties' proposed resolution, usually through their Advisors, often including terms of confidentiality, release, and non-disparagement.

Parties do not have the authority to stipulate restrictions or obligations for individuals or groups that are not involved in the alternative resolution process. The Compliance Officer/Title IX Coordinator will determine whether additional individual or community remedies are necessary to meet the institution's compliance obligations in addition to the alternative resolution.

The Compliance Officer/Title IX Coordinator maintains records of any resolution that is reached and will provide notification to the Parties of what information is maintained. Failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions (e.g., dissolution of the agreement and resumption of the Administrative Resolution Process, referral to the conduct process for failure to comply, application of the enforcement terms of the agreement). Where the failure to abide by the Informal Resolution agreement terms results in a failure to remedy a Policy violation, the Compliance Officer/Title IX Coordinator must consider whether to dissolve the agreement and reinstate the Administrative Resolution Process to remedy the impact as required by law. The results of reports resolved by alternative resolution are not appealable.

If an Informal Resolution option is not available or selected, STC will initiate or continue an investigation and subsequent Administrative Resolution Process to determine whether the Policy has been violated.

### Administrative Resolution Process

Administrative Resolution can be pursued at any time during the process for any behavior for which the Respondent has not accepted responsibility that would constitute conduct covered by the Equal Opportunity, Harassment, and Nondiscrimination Policy if proven. Administrative Resolution starts with a thorough, reliable, and impartial investigation.

If Administrative Resolution is initiated, the Compliance Officer/Title IX Coordinator will provide written notification of the investigation to the Parties at an appropriate time during the investigation. Typically, notice is given at least two (2) business days in advance of an interview. Advanced notice facilitates the Parties' ability to identify and choose an Advisor, if any, to accompany them to the interview.

Written notification will include a meaningful summary of the allegations and the policies alleged to have been violated and may be delivered by one or more of the following methods: in person, mailed to the Parties' local or permanent address as indicated in official STC records, or emailed to the Parties' STC-issued or other approved email account. Once emailed and/or received in-person, notice is presumptively delivered.

STC aims to complete all investigations within a sixty (60) business day-time period, which can be extended by the Compliance Officer/Title IX Coordinator as necessary for appropriate cause. Investigations can take weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc.

Once an investigation is initiated, the Compliance Officer/Title IX Coordinator appoints an Investigator(s) to conduct it. These Investigators may be members of the Resolution Process Pool, or any other properly trained Investigator, whether internal or external to STC community.

STC will make a good faith effort to complete the investigation as promptly as circumstances permit and will communicate regularly with the Parties to update them on the progress and timing of the investigation.

STC may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include, but are not limited to, a request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence of Parties and/or witnesses, and/or health conditions. STC will promptly resume its Resolution Process as soon as feasible. During such a delay, STC will implement and maintain supportive measures for the Parties as deemed appropriate.

STC action(s) are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

All investigations are thorough, reliable, impartial, prompt, and fair. They involve interviewing all available, relevant Parties and witnesses, obtaining relevant evidence, and identifying sources of expert information, as necessary.

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## Resolution Process Pool

STC relies on a pool of individuals (the “Pool”) to carry out the resolution options.

### Pool Member Roles<sup>27</sup>

Resolution Process Pool members are trained annually, and can serve in any of the following roles, at the Compliance Officer/Title IX Coordinator’s discretion:

- Appropriate intake of and initial guidance pertaining to Notice
- Perform or assist with initial assessment
- Advisor to Parties
- Informal Resolution Facilitator
- Investigator
- Decision-maker
- Appeal Decision-maker

### Pool Member Appointment

The Compliance Officer/Title IX Coordinator, in consultation with senior administrators as necessary, appoints the Resolution Process Pool, which acts with independence and impartiality.<sup>28</sup> Although members of the Resolution Process Pool are typically trained in a variety of skill sets and can rotate amongst the different roles listed above in different complaints, STC can also designate permanent roles for individuals in the Resolution Process Pool.

### Pool Member Training

## Notice of Investigation and Allegations

The Compliance Officer/Title IX Coordinator will provide the Parties written Notice of the Investigation and Allegations (the “NOIA”) upon commencement of the Administrative Resolution Process. Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available. For climate/culture investigations that do not have an identifiable

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<sup>27</sup> External, trained third-party neutral professionals may also serve in Resolution Process Pool roles.

<sup>28</sup> External, trained third-party neutral professionals may also be used to serve in Resolution Process Pool roles.

Respondent, the NOIA will be sent to the department/office/program head for the area/program being investigated.

The NOIA will include:

- A meaningful summary of all allegations
- The names of the involved Parties (if known)
- The precise misconduct being alleged
- The date and location of the alleged incident(s) (if known)
- The specific policies/offenses implicated
- A description of, link to, or copy of the applicable procedures
- A statement that STC presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a Final Determination that the Policy has been violated
- The name(s) of the Investigator(s), along with a process to notify the Compliance Officer/Title IX Coordinator of any conflict of interest that the Investigator(s) may have in advance of the interview process
- A statement that determinations of responsibility are made at the conclusion of the process and that the Parties will be given an opportunity during the review and comment period to inspect and review all Relevant Evidence obtained
- A statement of the potential sanctions/responsive actions that could result
- A statement about STC's policy on Retaliation
- Information about process confidentiality
- Information on the need for each party to have an Advisor of their choosing and suggestions for ways to identify an Advisor
- A statement informing the Parties that STC's Policy prohibits knowingly making false statements, including knowingly submitting false information during the Administrative Resolution Process
- Information about how a party may request disability accommodations or other support assistance during the Administrative Resolution Process
- A link to STC's VAWA Brochure, if applicable
- An instruction to preserve any evidence that is directly related to the allegations

Notification will be made in writing and may be delivered by one or more of the following methods: in person or emailed to the Parties' STC-issued email or other approved accounts. Once emailed and/or received in-person, notice is presumptively delivered.

## Resolution Timeline

STC will make a good faith effort to complete the Administrative Resolution Process within sixty (60) business days, including any appeals, which the Compliance Officer/Title IX Coordinator can extend as necessary for appropriate cause. The Parties will receive regular updates on the progress of the Administrative Resolution Process, as well as notification and a rationale for any extensions or delays, and an estimate of how much additional time will be needed to complete the process.

Investigations are completed expeditiously, normally within sixty (60) business days, though some investigations may take longer, depending on the nature, extent, and complexity of the allegations, witness availability, law enforcement involvement, and other factors.

STC may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include, but are not limited to, a request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence of Parties and/or witnesses, and/or health conditions. STC will promptly resume its Administrative Resolution Process as soon as feasible. During such a delay, STC will implement and maintain supportive measures for the Parties as deemed appropriate.

STC action(s) or processes are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

STC will make a good faith effort to complete the Administrative Resolution Process as promptly as circumstances permit and will regularly communicate with the Parties to update them on the progress and timing of the process.

## Ensuring Impartiality

No individual materially involved in the administration of the Administrative Resolution Process, including the Compliance Officer/Title IX Coordinator, Investigator(s), and Decision-maker(s), may have or demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

The Compliance Officer/Title IX Coordinator will vet the assigned Investigator(s), Decision-maker(s), and Appeal Decision-maker(s) for impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. The Parties may raise a concern regarding bias or conflict of interest at any time during the Administrative Resolution Process, and the Compliance Officer/Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another Resolution Process Pool member, or other trained individual, will be assigned, and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Compliance Officer/Title IX Coordinator, concerns should be raised with the Director of Human Resources.

The Administrative Resolution Process involves an objective evaluation of all Relevant Evidence obtained, including evidence that supports that the Respondent violated the Policy and evidence that supports that the Respondent did not violate the Policy. Credibility determinations will not be based solely on an individual's status or participation as a Complainant, Respondent, or witness. All Parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence, and to receive a written Investigation Report that accurately summarizes this evidence.

## Investigation

All investigations are thorough, reliable, impartial, prompt, and fair. They involve interviewing all available, relevant Parties and witnesses, obtaining Relevant Evidence, and identifying sources of expert information, as necessary.

After an interview, Parties and witnesses will be asked to verify the accuracy of the recording, transcript, or summary of their interview. They may submit changes, edits, or clarifications. If the Parties or witnesses do not respond within the time period designated for verification, objections to the accuracy of the recording, transcript, or summary will be deemed to have been waived, and no changes will be permitted.

STC may consolidate Complaints against more than one Respondent, or by more than one Complainant against one or more Respondent(s), when the allegations arise from the same facts or circumstances or implicate a pattern, collusion, and/or other shared or similar actions.

Investigations involve the following:

- Determining the identity of and contacting all involved Parties and potential witnesses to participate in an investigation interview
- Identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for the Parties and witnesses
- Providing written notification of the date, time, and location of all investigation meetings, including the expected participants and purpose
- Conducting any necessary follow-up interviews with Parties or witnesses.
- Providing the Parties and witnesses an opportunity to verify the accuracy of either a summary or transcript of their interview(s)
- Soliciting the names of suggested witnesses and questions each party wishes to have asked of another party or witness
- Writing a Draft Investigation Report that gathers, assesses, and synthesizes the evidence, accurately summarizes the investigation and party and witness interviews, and provides all Relevant Evidence
- Providing the Parties and their respective Advisors an electronic or hard copy of the Draft Investigation Report for a ten (10) business day review and comment period so that each party may meaningfully respond to the evidence. The Parties may elect to waive the full ten (10) days
- Incorporating any new, Relevant Evidence and information obtained through the Parties' review of the Draft Investigation Report and any follow-up meetings into the Final Investigation Report
- Responding in writing (typically within the Final Investigation Report) to the relevant elements of the Parties' responses to the Draft Investigation Report.
- Sharing the Final Investigation Report with the Compliance Officer/Title IX Coordinator [and/or legal counsel] for their review and feedback
- Providing the Compliance Officer/Title IX Coordinator with the Final Investigation Report, including assessment and synthesis of the Relevant Evidence without making any recommendations or reaching any conclusions

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## Investigation Process Details

### Witness Role and Participation in the Investigation

Witnesses who are STC Employees are strongly encouraged to cooperate with and participate in STC's investigation and Administrative Resolution Process. Student witnesses and witnesses from outside STC community are encouraged to cooperate with STC investigations and to share what they know about a complaint.

Party and/or witness interviews may be conducted in person, via online video platforms (e.g., Zoom, Microsoft Teams, FaceTime, WebEx), or, in limited circumstances, by telephone. STC will take appropriate steps to ensure the security/privacy of remote interviews.

Parties and witnesses may also provide written statements in lieu of interviews or choose to respond to written questions, if deemed appropriate by the Investigator(s), though not preferred.

### Interview Recording

It is standard practice for Investigators to create a record of all interviews pertaining to the Administrative Resolution Process, by recording, transcript, or written summary. The Parties may review copies of their own interviews upon request. No unauthorized audio or video recording of any kind is permitted during investigation meetings.

All interviews are recorded, and all involved persons should be made aware of the audio and/or video recording. The recording and/or transcript of those meetings will be provided to the Parties for their review, after which the Parties may suggest additional questions to be asked of another party or witness or additional witnesses. Those subsequent meetings or interviews are also recorded and/or transcribed.

### Evidentiary Considerations

The Parties must provide all evidence to the Investigator(s) prior to completion of the Final Investigation Report. Evidence offered after that time will be evaluated by the Decision-maker for relevance. If deemed relevant, the Parties and Decision-maker must agree to admit it into the record. If the evidence is deemed not relevant, the Decision-maker may proceed with making Findings and a Final Determination absent the new evidence.

The new relevant evidence will be admitted to the record if:

- All Parties and the Decision-maker assent to the new evidence being considered without remanding the matter back to the Investigator,
- The evidence is not duplicative of evidence already in the record, and

- The new evidence was either not reasonably available prior to the conclusion of the Final Investigation Report, or the failure to provide it in a timely manner was not the result of bad faith by the Parties, witnesses, or others.

If the above criteria are not met, but the evidence is deemed materially relevant and not duplicative, the Decision-maker may, at their discretion, engage in any of the following actions:

- Provide the Parties with at least five (5) business days to review the relevant evidence
- Remand the matter back to the Investigator for further investigation or analysis
- Allow the Parties time to review and comment on the new evidence

If the evidence is deemed not relevant, the Decision-maker may proceed with making Findings and a Final Determination without allowing the new evidence.

Any evidence that is relevant and credible may be considered, including a Respondent's prior disciplinary history as well as evidence indicating a pattern of misconduct, subject to the limitation in (D) below. The process should exclude irrelevant or immaterial evidence and may disregard evidence lacking in credibility or that is improperly prejudicial.

### Evidentiary Exclusions

Unless the Decision-maker determines it is appropriate, the investigation and the Finding do not consider: (1) incidents not directly related to the possible violation(s), unless they evidence a pattern; (2) the irrelevant sexual behavior of the Parties (though there may be a limited exception made with regard to the sexual behavior between the Parties); (3) irrelevant character evidence.

Although the Respondent's previous conduct violations (if any) are not generally admissible as information supporting the current allegation(s), the Investigator(s) may supply the Decision-maker with information about previous good faith allegations and/or findings when that information suggests potential pattern and/or predatory conduct.

STC uses a progressive discipline system, thus previous disciplinary action of any kind involving the Respondent may be considered in determining the appropriate sanction(s).

Character witnesses or evidence may be offered. The Decision-maker will determine if the character evidence is relevant. If so, it may be considered. If not, it will be excluded.

A party or witness's records that are made or maintained by a physician, psychologist, or psychiatrist are inadmissible unless the party or witness provides voluntary, written consent for the records to be considered.

## Respondent Admits Responsibility

If a Respondent elects to admit to the charged violations and waive further process at any point in the Administrative Resolution Process, the Decision-maker is authorized to accept that admission, adopt it as their Finding/Final Determination, and administer sanctions. This would waive the Respondent's right to appeal. If the Respondent rejects the Finding/Final Determination/sanctions, or does not admit to all charged violations, the Administrative Resolution Process continues to its conclusion. The Complainant retains their right to appeal a Final Determination when a Respondent admits responsibility.

## Determination

Within two (2) business days of receiving the Investigator's Final Investigation Report, the Compliance Officer/Title IX Coordinator reviews the report and all responses, and then makes the Final Determination by applying the standard of evidence.<sup>29</sup>

If the record is incomplete, the Decision-maker may direct the Investigator(s) to re-open the investigation, or may direct or conduct any additional inquiry necessary, including informally meeting with the Parties or any witnesses if needed.

The Decision-maker may invite and consider impact and/or mitigation statements from the Parties when determining appropriate sanction(s), if any.

## Notice of Outcome

The Compliance Officer/Title IX Coordinator will provide the Parties a written outcome notification within two (2) business days of the Resolution. The outcome notification will specify the Finding for each alleged Policy violation, any sanction(s) that may result, which STC is permitted to share pursuant to federal or state law, and a detailed rationale, written by the Decision-maker, supporting the Findings to the extent STC is permitted to share under federal or state law.

The notification will also detail the Parties' equal rights to appeal, the grounds for appeal, the steps to request an appeal, and when the determination is considered final if no party appeals. Unless based on the Respondent's admission of responsibility, the Determination may be appealed by any party.

The Compliance Officer/Title IX Coordinator will provide the Parties with the outcome notification, or without significant time delay between notifications. Notice may be delivered by one or more of the following methods: in person, mailed to the Parties' local or permanent address as indicated in official STC records, or emailed to the Parties' STC-issued or other approved email account. Once emailed and/or received in-person, notice is presumptively delivered.

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<sup>29</sup> When the Compliance Officer/Title IX Coordinator is the Investigator or has been heavily involved in the process prior to a determination, a Decision-maker should be designated from the Resolution Process Pool to ensure there is no conflict of interest.

## Sanctions

Factors the Decision-maker may consider when determining sanctions and responsive action include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- The need for sanctions/responsive actions to bring an end to the Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct
- The need for sanctions/responsive actions to prevent the future recurrence of Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct
- The need to remedy the effects of Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct on the Complainant and the community
- The impact on the Parties
- The Respondent's acknowledgement of responsibility or contrition
- Any other information deemed relevant by the Decision-maker

The sanctions will be implemented as soon as is feasible once a Determination is final, either upon the outcome of any appeal or the expiration of the window to appeal, without an appeal being requested.

The sanctions described in the Procedures are not exclusive of, and may be in addition to, other actions taken, or sanctions imposed, by external authorities.

### Student Sanctions

The following are the common sanctions that may be imposed upon Students singly or in combination:

- *Reprimand*: A formal statement that the conduct was unacceptable and a warning that further violation of any STC policy, procedure, or directive will result in more severe sanctions/responsive actions
- *Required Counseling*: A mandate to meet with and engage in either STC-sponsored or external counseling to better comprehend the misconduct and its effects
- *Restrictions*: A Student may be restricted in their activities, including, but not limited to, being restricted from locations, programs, participation in certain activities or extracurriculars, study abroad, or holding leadership roles in student organizations
- *Probation*: An official sanction for violation of STC policy, providing for more severe disciplinary sanctions if the Student is found in violation of any STC policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.
- *Suspension*: Separation from STC, or one or more of its facilities, for a defined period of time, typically not to exceed two (2) years, after which the Student is eligible to return. Eligibility may be contingent upon satisfaction of specific conditions noted at the time of suspension, on successfully applying for readmission, or upon a general condition that the Student is eligible to

return if STC determines it is appropriate to re-enroll/readmit the Student. The Student is typically required to vacate STC property within 24 hours of notification of the action, though this deadline may be extended at the discretion of the Compliance Officer/Title IX Coordinator or other appropriate official. During a STC-wide suspension, the Student is banned from STC property, functions, events, and activities unless they receive prior written approval from an appropriate STC official. This sanction may be enforced with a trespass action, as necessary.

- *Expulsion*: Permanent separation from STC. The Student is banned from STC property, and the Student's presence at any STC-sponsored activity or event is prohibited. This action may be enforced with a trespass action, as necessary.
- *Withholding Diploma*: STC may withhold a Student's diploma for a specified period of time and/or deny a Student participation in commencement activities as a sanction if the Student is found responsible for violating the Policy
- *Revocation of Degree*: While very rarely exercised, STC reserves the right to revoke a degree previously awarded by STC for fraud, misrepresentation, and/or other violation of STC policies, procedures, or directives in obtaining the degree, or for other serious violations committed by a Student prior to graduation
- *Other Actions*: In addition to, or in place of, the above sanctions, STC may assign any other sanctions as deemed appropriate

## Student Organization Sanctions

The following are the common sanctions that may be imposed upon student groups organizations singly or in combination:

- *Warning*: A formal statement that the conduct was unacceptable and a warning that further violation of any STC policy, procedure, or directive will result in more severe sanctions/responsive actions.
- *Probation*: An official sanction for violation of STC policy, providing for more severe disciplinary sanctions if the group or organization is found in violation of any STC policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social and event privileges, denial of STC funds, ineligibility for honors and awards, restrictions on new member recruitment, no-contact orders, and/or other measures deemed appropriate.
- *Suspension*: Termination of student group or organization recognition and/or STC support for a defined period of time not to exceed two (2) years and/or until specific criteria are met. During the suspension period, a student group or organization may not conduct any formal or informal business or participate in STC-related activities, whether they occur on or off campus. Re-recognition is possible but not guaranteed and will only be considered after the end of the suspension period and based on meeting all re-recognition criteria and obtaining clearance from STC.
- *Expulsion*: Permanent termination of student group or organization recognition and revocation of the privilege to congregate and conduct business on campus as an organization for any reason
- *Loss of Privileges*: Restricted from accessing specific STC privileges for a specified period of time

- *Other Actions:* In addition to, or in place of, the above sanctions, STC may assign any other sanctions as deemed appropriate

## Employee Sanctions/Responsive/Corrective Actions

Responsive actions for an Employee who has engaged in Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct include:

- *Verbal or Written Warning*
- *Performance Improvement Plan/Management Process*
- *Enhanced Supervision, Observation, or Review*
- *Required Counseling*
- *Required Training or Education*
- *Probation*
- *Denial of Pay Increase/Pay Grade*
- *Loss of Oversight or Supervisory Responsibility*
- *Demotion*
- *Transfer*
- *Shift or schedule adjustments*
- *Reassignment*
- *Delay of (or referral for delay of) Tenure Track Progress*
- *Assignment to a New Supervisor*
- *Restriction of Stipends, Research, and/or Professional Development Resources*
- *Suspension/Administrative Leave with Pay*
- *Suspension/Administrative Leave without Pay*
- *Termination*
- *Other Actions:* In addition to, or in place of, the above sanctions/responsive actions, STC may assign any other responsive actions as deemed appropriate.

## Withdrawal or Resignation Before Complaint Resolution

### Students

Student Respondents with pending allegations Equal Opportunity, Harassment, and Nondiscrimination Policy violations are not permitted to withdraw from the institution without the Compliance Officer/Title IX Coordinator's permission of the Compliance Officer/Title IX Coordinator. STC may place a hold, bar access to an official transcript, and/or prohibit graduation as necessary to permit the Administrative Resolution Process to be completed.

Regardless of whether the Formal Complaint is dismissed or pursued to completion of the Administrative Resolution Process, STC will continue to address and remedy any systemic issues or

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concerns that may have contributed to the alleged violation(s), and any ongoing effects of the alleged Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct.

When a Student withdraws or takes a leave of absence while the process is pending, the Student may not return to STC in any capacity until the allegations are resolved and any sanctions imposed are satisfied. If the Student indicates they will not return, the Compliance Officer/Title IX Coordinator has discretion to dismiss the allegations and bar the Student from returning. The Registrar, Office of Admissions, and HR may be notified accordingly.

If the Student Respondent takes a leave of absence for a specified period of time (e.g., one semester or term), the Administrative Resolution Process may continue remotely. If found in violation, that Student is not permitted to return to STC unless and until all sanctions, if any, have been satisfied.

## Employees

Should an Employee Respondent decide not to participate in the Administrative Resolution Process, the process proceeds absent their participation to a reasonable resolution. If an Employee Respondent leaves their employment with STC with unresolved allegations pending, the Administrative Resolution Process typically ends with dismissal, as STC has lost primary disciplinary jurisdiction over the former Employee. However, STC may continue the Administrative Resolution Process when, at the discretion of the Compliance Officer/Title IX Coordinator, doing so may be necessary to address safety and/or remedy any ongoing effects of the alleged Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct.

Regardless of whether the allegations are dismissed or pursued to completion of the Administrative Resolution Process, STC will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s), and any ongoing effects of the alleged Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct.

When an Employee resigns and the allegations are dismissed, the Employee may not return to STC in any capacity. The Registrar, Office of Admissions, and HR will be notified accordingly. A note will be placed in the Employee's file that they resigned with allegations pending and are not eligible for academic admission or rehire with STC. The records retained by the Compliance Officer/Title IX Coordinator will reflect that status.

## Appeals

The Compliance Officer/Title IX Coordinator will designate an Appeal Decision-maker from the Resolution Process Pool, or other trained internal or external individuals, to hear the appeal. No Appeal Decision-maker will have been previously involved in the Administrative Resolution Process for the matter. The Compliance Officer/Title IX Coordinator will designate a voting chair if a panel is used.

## Appeal Grounds

Appeals are limited to the following grounds:

1. A procedural irregularity affected the outcome of the matter
2. There is new evidence that was not reasonably available at the time the determination regarding responsibility was made that could affect the outcome of the matter
3. The Compliance Officer/Title IX Coordinator, Investigator(s), or Decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter
4. The Decision-maker's Final Determination is substantially contrary to the weight of the evidence in the record (applicable to sanctions of suspension, expulsion, or termination-level offenses, only)
5. The sanctions fall outside the range of sanctions designated for this offense, considering the cumulative conduct/disciplinary record of the Respondent (applicable to sanctions of suspension, expulsion, or termination-level offenses, only)

## Appeal Request

Any party may submit a written appeal request to the Compliance Officer/Title IX Coordinator within five (5) business days of the delivery of the notice of outcome.

The appeal request will be forwarded to the Appeal Decision-maker for consideration to determine if the request meets the appeal grounds for appeal (a Review for Standing). This is not a review of the merits of the appeal, but solely a determination as to whether the request could reasonably be construed to meet the grounds and is timely filed.

If the appeal request does not provide information that meets the grounds in the procedures, the request will be denied by the Appeal Decision-maker, and the Parties and their Advisors will be simultaneously notified in writing of the denial and the rationale.

If any of the information in the appeal request meets the grounds in the Procedures, then the Appeal Decision-maker will notify all Parties and their Advisors, the Compliance Officer/Title IX Coordinator, and, when appropriate, the Investigator(s) and/or the original Decision-maker.

All other Parties and their Advisors, the Compliance Officer/Title IX Coordinator, and, when appropriate, the Investigator(s) and/or the Decision-maker will be provided a copy of the appeal request with the approved grounds and then be given five (5) business days to submit a response to the portion of the appeal that was approved and involves them. The Appeal Decision-maker will forward all responses, if any, to all Parties for review and comment.

The non-appealing party (if any) may also choose to appeal at this time. If so, that appeal request will be reviewed by the Appeal Decision-maker to determine if it meets the grounds in the Procedures and will either be approved or denied. If approved, it will be forwarded to the party who initially requested an appeal, the Compliance Officer/Title IX Coordinator, and the Investigator(s) and/or original Decision-maker, as necessary, who will submit their responses, if any, within five (5) business days. Any such

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responses will be circulated for review and comment by all Parties. If denied, the Parties and their Advisors will be notified in writing.

No party may submit any new appeal request after this time period. The Appeal Decision-maker will collect any additional information needed and all documentation regarding the approved appeal grounds, and the subsequent responses will be shared with the Appeal Decision-maker, who will promptly render a decision.

### Appeal Determination Process

In most circumstances, appeals are confined to a review of the written documentation or record of the original determination and pertinent documentation regarding the specific appeal grounds. The Appeal Decision-maker will deliberate as soon as is practicable and discuss the merits of the appeal.

Appeal decisions are to be deferential to the original determination, making changes to the Finding/Final Determination only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so. All decisions are made by majority vote and apply the preponderance of the evidence standard of evidence.

An appeal is not an opportunity for the Appeal Decision-maker to substitute their judgment for that of the original Decision-maker merely because they disagree with the Finding and/or sanction(s).

The Appeal Decision-maker may consult with the Compliance Officer/Title IX Coordinator and/or legal counsel on questions of procedure or rationale, for clarification, if needed. The Compliance Officer/Title IX Coordinator will maintain documentation of all such consultation.

### Appeal Outcome

An appeal may be granted or denied. Appeals that are granted should normally be remanded (or partially remanded) to the original Investigator(s) and/or Decision-maker with corrective instructions for reconsideration. In rare circumstances where an error cannot be cured by the original Investigator(s) and/or Decision-maker or the Compliance Officer/Title IX Coordinator (as in cases of bias), the Appeal Decision-maker may order a new investigation and/or a new hearing with new Resolution Process Pool members serving in the Investigator and Decision-maker roles.

A notice of appeal outcome letter will be sent to all Parties simultaneously, or without significant time delay between notifications. The appeal outcome letter will specify the Finding on each appeal ground, any specific instructions for remand or reconsideration, all sanction(s) that may result which STC is permitted to share according to federal or state law, and the rationale supporting the essential Findings to the extent STC is permitted to share under federal or state law.

Written notification may be delivered by one or more of the following methods: in person, mailed to the Parties' local or permanent address as indicated in official institutional records, or emailed to the Parties' STC-issued email or other approved account. Once emailed and/or received in person, the appeal outcome will be presumptively delivered.

Once an appeal is decided, the outcome is final and constitutes the Final Determination; further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new determination). When appeals result in no change to the finding or sanction, that decision is final. When an appeal results in a new Finding or sanction, that Finding or sanction can be appealed one final time on the grounds listed above and in accordance with the Procedures.

If a remand results in a new Finding or sanction that is different from the original Finding or sanction, that new Finding or sanction can be appealed, once, on any of the available appeal grounds.

### Sanction Status During the Appeal

Any sanctions imposed as a result of the Final Determination are stayed (i.e., not implemented) during the appeal process, and supportive measures may be maintained or reinstated until the appeal determination is made.

If any of the sanctions are to be implemented immediately post-determination, but pre-appeal, then the interim suspension procedures (detailed above) for a show cause meeting on the justification for doing so must be permitted within two (2) business days of implementation.

### Long-Term Remedies/Actions

Following the conclusion of the Administrative Resolution Process, and in addition to any sanctions implemented or Informal Resolution terms, the Compliance Officer/Title IX Coordinator may implement additional long-term remedies or actions with respect to the Parties and/or STC community that are intended to stop the Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct, remedy the effects, and prevent its recurrence.

These remedies/actions may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Course and registration adjustments, such as retroactive withdrawals
- Education to the individual and/or the community
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification and/or training
- Provision of transportation assistance
- Implementation of long-term contact limitations between the Parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the Compliance Officer/Title IX Coordinator's discretion, the Parties may be provided certain long-term support or measures even if no Policy violation is found.

When no Policy violation is found, the Compliance Officer/Title IX Coordinator will address any remedies STC owes the Respondent to ensure no effective denial of educational access.

STC will maintain the confidentiality of any long-term remedies/actions/measures, provided confidentiality does not impair STC's ability to provide these services.

## Failure to Comply with Sanctions and/or Responsive Actions

All Respondents are expected to comply with the assigned sanctions, responsive actions, corrective actions, and/or Informal Resolution terms within the timeframe specified by the final Decision-maker, including the Appeal Decision-maker or the Informal Resolution agreement.

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from STC.

Supervisors are expected to enforce completion of sanctions/responsive actions for their Employees.

A suspension imposed for non-compliance with sanctions will only be lifted when compliance is achieved to the Compliance Officer/Title IX Coordinator's satisfaction.

## Recordkeeping

In implementing the Policy and Procedures, the Compliance Officer/Title IX Coordinator will maintain records of all allegations, investigations, and Resolutions, indefinitely, or as required by federal or state law or institutional policy.

## Statement of the Rights of the Parties (See [Appendix E](#))

## Disability Accommodations

STC is committed to providing reasonable accommodations and support to qualified Students, Employees, or others with disabilities to ensure equal access to STC's Resolution Process.

Anyone needing such accommodations or support should contact the Compliance Officer/Title IX Coordinator, who will work with the Accessibility Services as appropriate to review the request and, in consultation with the person requesting the accommodation, determine which accommodations are appropriate and necessary for full process participation.

## Other Support

STC will address other reasonable requests for support for the Parties and witnesses, including:

- Language services/Interpreters
- Access and training regarding use of technology throughout a resolution process
- Other support as deemed reasonable and necessary to facilitate participation in a resolution process

## APPENDIX E: STATEMENT OF THE PARTIES' RIGHTS

### **Under the Policy and Procedures, the Parties have the right to:**

- An equitable investigation and Resolution of all credible allegations of prohibited Discrimination, Harassment, Retaliation, and Other Prohibited Conduct, when reported in good faith to STC officials
- Timely written notice of all alleged violations, including the identity of the Parties involved (if known), the precise misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated policies and procedures, and possible sanctions
- Timely written notice of any material adjustments to the allegations (e.g., additional incidents or allegations, additional reports or Formal Complainants) by updating the Notice of Investigation and Allegation(s) (NOIA) as needed to clarify potentially implicated Policy violations
- Be informed in advance of any STC public release of information regarding the allegation(s) or underlying incident(s), whenever possible
- Have all personally identifiable information protected from STC's release to the public without consent, except to the extent permitted by law
- Be treated with respect by STC officials
- Have STC Policy and Procedures followed without material deviation.
- Voluntarily agree to resolve allegations under the Policy through Informal Resolution without STC pressure, if Informal Resolution is approved by the Compliance Officer/Title IX Coordinator
- Not be discouraged by STC officials from reporting Discrimination, Harassment, Retaliation, and Other Prohibited Conduct to both on-campus and off-campus authorities
- Be informed of options to notify proper law enforcement authorities, including on-campus and local police, and the option(s) for STC to assist in notifying such authorities, if the party chooses. This also includes the right not to be pressured to report
- Have STC law enforcement and/or other STC officials respond promptly to alleged Policy violations
- Be informed of available supportive measures, such as counseling, advocacy, health care, student financial aid, visa and immigration assistance, and/or other services, both on campus and in the community
- A STC-implemented no-contact order or a no-trespass order against a non-affiliated third party when a person has engaged in or threatens to engage in stalking, threatening, harassing, or other improper conduct
- Be informed of available assistance in changing academic, living, and/or employment situations after an alleged incident of Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct if such changes are reasonably available. No report or Formal Complaint, or investigation, either institutional or criminal, needs to occur before this option is available. Such actions may include, but are not limited to:
  - Relocating a residential Student's housing to a different on-campus location
  - Assistance from STC staff in completing the relocation
  - Changing an Employee's work environment (e.g., reporting structure, office/workspace relocation)
  - Transportation assistance

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- Visa/immigration assistance
- Arranging to dissolve a housing contract and provide a pro-rated refund
- Rescheduling or adjusting an exam, paper, and/or assignment
- Receiving an incomplete in, or a withdrawal from, a class (may be retroactive)
- Transferring class sections
- Temporary withdrawal/leave of absence (may be retroactive)
- Campus safety escorts
- Alternative course completion options
- Have STC maintain supportive measures for as long as necessary, ensuring they remain confidential, provided confidentiality does not impair STC's ability to provide the supportive measures or comply with the law
- Receive sufficiently advanced written notice of any STC meetings or interviews involving another party, when possible
- Identify and have the Investigator(s), Advisors, and/or Decision-maker question relevant available witnesses, including expert witnesses
- Provide the Investigator(s)/Decision-maker with a list of questions that, if deemed relevant by the Investigator(s)/Decision-maker, may be asked of any party or witness
- Have Complainant's inadmissible sexual predisposition/prior sexual history or any party's irrelevant character evidence excluded by the Decision-maker
- Review the Relevant and Directly Related Evidence (if applicable) obtained and respond to that evidence
- A fair opportunity to provide the Investigator(s) with their account of the alleged misconduct and have that account be on the record
- Receive a copy of all Relevant and Directly Related Evidence (if applicable) obtained during the investigation, subject to privacy limitations imposed by federal and state law, and a ten (10) business day period to review and comment on the evidence
- Receive a copy of the Final Investigation Report, including all factual, Policy, and/or credibility analyses performed, and to have at least ten (10) business days to review and comment on the report prior to a hearing
- Be informed of the names of all witnesses whose information will be used to make a Finding, in advance of that Finding, when relevant
- Regular status updates on the investigation and/or resolution process
- Have reports of alleged Policy violations addressed by Resolution Process Pool members, or others, who have received relevant annual training as required
- A Decision-making panel that is not single Sex in its composition, if a panel is used
- Preservation of confidentiality/privacy, to the extent possible and permitted by law
- Meetings, interviews, and/or hearings that are closed to the public
- Petition that any STC representative in the process be recused on the basis of disqualifying bias and/or a conflict of interest
- Be able to select an Advisor of their choice to accompany and assist the party in all meetings and/or interviews associated with the resolution process

- Apply the appropriate standard of evidence, preponderance of the evidence, to make a Finding and Final Determination after an objective evaluation of all Relevant Evidence.
- Be present, including presence via remote technology, during all testimony given and evidence presented during any hearing
- Have an impact and/or mitigation statement considered by the Decision-maker following a Final Determination of responsibility for any allegation, but prior to sanctioning
- Be promptly informed of the resolution process Finding(s) and sanction(s) (if any) and be given a detailed rationale for the decision (including an explanation of how credibility was assessed) in a written outcome letter delivered to the Parties simultaneously (without undue delay)
- Be informed in writing of when a STC decision is considered final and any changes to the Final Determination or sanction(s) that occur post outcome letter delivery
- Be informed of the opportunity to appeal the Finding(s) and sanction(s) and the procedures for doing so in accordance with STC's appeal grounds
- A fundamentally fair resolution as defined in the Procedures

## APPENDIX F: PRIVACY AND CONFIDENTIALITY

For the purpose of the Policy, privacy and confidentiality have distinct meanings.

**Privacy** means that information related to Notice or a Formal Complaint will be shared with a limited number of STC Employees who “need to know” in order to assist in the assessment, investigation, and resolution of the Formal Complaint. All Employees who are involved in STC’s response to Notice under the Policy receive specific training and guidance about sharing and safeguarding private information in accordance with state and federal law. The privacy of Student education records will be protected in accordance with the Family Educational Rights and Privacy Act (FERPA), as outlined in STC’s Student Records Policy. The privacy of Employee records will be protected in accordance with Human Resources policies.

**Confidentiality** exists in the context of laws (including Title IX) that protect certain relationships, including those who provide services related to medical and clinical care, mental health providers, counselors, and ordained clergy. The law creates a privilege between certain health care providers, mental health care providers, attorneys, clergy, spouses, and others, with their patients, clients, parishioners, and spouses. STC has designated individuals who can have privileged communications as Confidential Resources. See [Section 6](#) of the Policy for more information about Confidential Resources.

When information is shared by a Complainant with a Confidential Resource, the Confidential Resource cannot reveal the information to any third party except when an applicable law or a court order requires or permits disclosure of such information. For example, information may be disclosed when: (1) the individual gives written consent for its disclosure; (2) there is a concern that the individual will likely cause serious physical harm to self or others; or (3) the information concerns conduct involving suspected abuse or neglect of a minor under the age of 18, elders, or individuals with disabilities. Confidential Resources may share non-identifiable information for statistical tracking purposes as required by the federal Clery Act. Other information may be shared as required by law.

## APPENDIX G: UNETHICAL RELATIONSHIPS POLICY

### Expectations Regarding Unethical Relationships

There are inherent risks in any romantic or sexual relationship between persons in unequal positions, such as Faculty member-Student or supervisor-Employee. In reality, these relationships may be less consensual than perceived by the person whose position confers power or authority. Similarly, each of the Parties may view the relationship differently, particularly in retrospect. Circumstances may change, and once welcome conduct may become unwelcome at some point in the relationship.

Even when the Parties have initially consented to romantic or sexual involvement, the possibility of a later allegation of a policy violation still exists. STC does not wish to interfere with private choices regarding personal relationships when these relationships do not interfere with STC's goals and policies. However, for the personal protection of members of this community, relationships in which power differentials are inherent (e.g., Faculty-Student, Employee-Student) are generally discouraged. They may also violate standards of professionalism and/or professional ethics.

Consensual romantic or sexual relationships in which one party maintains a direct supervisory or otherwise evaluative role over the other party are inherently problematic. Therefore, persons with direct supervisory or otherwise evaluative responsibilities who are involved in such relationships must promptly inform their supervisor and/or the Compliance Officer/Title IX Coordinator. The existence of this type of relationship will likely result in removing the supervisory or evaluative responsibilities from the Employee or shifting a party from being supervised or evaluated by someone with whom they have established a consensual relationship. When an applicable relationship existed prior to adoption of the Policy or prior to employment, the duty to notify the appropriate supervisor still pertains.

While no relationships are specifically prohibited by the Policy, failure to timely self-report such relationships to a supervisor as required can result in disciplinary action for an Employee. The Compliance Officer/Title IX Coordinator will determine whether to refer violations of this provision to Human Resources for resolution, or to pursue resolution under the Policy, based on the circumstances of the allegation.

## APPENDIX I: POOL MEMBER TRAINING

Resolution Process Pool members receive annual training related to their respective roles. This training may include, but is not limited to:

- The scope of STC’s Equal Opportunity, Harassment, and Nondiscrimination Policy
- STC’s Formal Grievance Process
- How to conduct investigations and hearings that protect the safety of Complainants and Respondents, and promote accountability
- Implicit bias and confirmation bias
- Disparate treatment
- Reporting, confidentiality, and privacy requirements
- Applicable laws, regulations, and federal regulatory guidance
- How to implement appropriate and situation-specific remedies
- How to investigate in a thorough, reliable, timely, and impartial manner
- Trauma-informed practices pertaining to investigations and resolution processes
- How to uphold fairness and due process
- How to weigh evidence
- How to conduct questioning
- How to assess credibility
- Impartiality and objectivity
- How to render findings and generate clear, concise, evidence-based rationales
- The definitions of all prohibited conduct
- How to apply definitions used by STC with respect to consent (or the absence or negation of consent) consistently, impartially, and in accordance with Policy
- How to conduct an investigation and grievance process including hearings, appeals, and Informal Resolution Processes
- How to serve impartially by avoiding prejudgment of the facts at issue, conflicts of interest, and bias against Respondents and/or for Complainants, and on the basis of Sex, race, religion, and other protected characteristics
- Any technology to be used at a live hearing
- Issues of relevance of questions and evidence
- Issues of relevance to create an investigation report that fairly summarizes relevant evidence
- How to determine appropriate sanctions in reference to all forms of Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct violations
- Recordkeeping

The materials used to train all members of the Resolution Process Pool do not rely on sex stereotypes.

### 5. Dissemination of Policy and Training

This policy is located on STC’s website under Consumer Information – Southeast Tech Policies

BASED ON THE ATIXA 2021 ONE POLICY, TWO PROCEDURES (1P2P) MODEL.

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<b>Board Approved: Policy</b>	<b>Date</b>	<b>Board Action</b>
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## **Policy/Regulation Revisions**

STC 105 – Nondiscrimination/Equal Opportunity

STC 706 – Harassment

STC 910 – Harassment

STC 914 – Student Sex/Gender Harassment, Discrimination, and Misconduct

### **Executive Summary**

**Purpose:**

To bring to the School Board the above STC policy for review/revision

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In an effort to keep the School Board Policy Books updated, members of the administration and the Southeast Technical College (STC) Review Committee will continually review the policies and regulations for items that need to be added, deleted, revised, or in some cases, to update the language.

The referenced policies/regulations have been reviewed by STC Administration and the STC Policy Review Committee. A new STC policy format has been implemented. Existing regulations, if applicable, have been positioned with the existing policies. Additional review included:

STC 105 – Nondiscrimination/Equal Opportunity - Withdrawal

STC 706 – Harassment - Withdrawal

STC 910 – Harassment - Withdrawal

STC 914 – Student Sex/Gender Harassment, Discrimination, and Misconduct - Withdrawal

Second readings are not necessary. (See Policy STC 250 – School Board Policy Process)

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**Policy Review Recommendation to School Board:**

Approve withdrawal of the above referenced policies.



**SOUTHEAST**  
Technical College

## EQUAL OPPORTUNITY/NONDISCRIMINATION (Withdraw)

~~Southeast Technical College Policy STC 105~~

### ~~1. Purpose~~

~~Southeast Technical College (STC) believes that a valuable element of education is the development of respect for all individuals and seeks to provide equal access/equal opportunity for students, employees and the public to STC programs and activities.~~

### ~~2. General Statement of Policy~~

~~A. In an effort to provide a safe, respectful educational environment, STC prohibits discrimination in its policies, employment practices, programs, and activities on the basis of race, color, creed, religion, age, gender (including pregnancy), sexual orientation, disability, national origin or ancestry, military/veteran status, genetic information or any other category protected by law. STC prohibits acts of discrimination toward any individual(s) while on STC property or at STC sponsored activities.~~

~~STC prohibits discrimination against students on the basis of parental status, marital status, or pregnancy. Students will not be excluded from any program or activity, including any class based on the above. Prohibited acts of discrimination include racial, sexual, ethnic, or other types of slurs, insults, intimidation, harassment, and other such conduct directed toward another person.~~

~~STC will make reasonable modifications to its programs, facilities, employment practices and activities to accommodate otherwise qualified individuals with a disability, unless such modifications would impose an undue burden on the operation of the particular program, or would alter the fundamental nature or purpose of the program or position, or cause an undue hardship on STC.~~

~~Violations of this policy may result in discipline up to and including expulsion for students, up to and including termination for employees and suspension from attending STC activities for citizens.~~

~~STC prohibits retaliation against any individual who reports a claim under this policy or participates in an investigation of any such claim.~~

~~Inquiries concerning equal opportunity/nondiscrimination or retaliation including Title VI, Title VII, or Title IX may be referred to the President or designee, 2320 North Career Ave., Southeast Technical College, Sioux Falls, SD 57107.~~

### ~~3. Reporting Procedures~~

~~A complaint may be filed by a student, parent/guardian, employee or other citizen when it is felt that a violation of Policy STC 105 Equal Opportunity/Nondiscrimination has occurred. Confidentiality, to the extent possible, will be maintained at each level of the complaint procedure.~~

~~The complainant is encouraged to attempt to resolve the issue informally by working with the administrator most directly involved in the situation before filing a formal complaint. However, it is understood that for some issues this may not be appropriate.~~

#### ~~A. Reporting Incidents of Discrimination — Grievance Procedures~~

~~Any person who believes he or she has been the victim of discrimination by a student or an employee of STC will report the alleged acts immediately to an STC Administrator or the Human Resources Department.~~

- ~~1. Designated Personnel. Upon receipt of a report, the STC administrator shall immediately notify and forward the written report form to the Human Resources Department. Failure to forward any discrimination report or complaint as provided herein will result in disciplinary action. If the complaint involves the administrator, the complaint shall be filed directly with the Human Resources Department.~~
- ~~2. College wide. The Sioux Falls School Board (School Board) hereby designates the Human Resources Director to receive reports or complaints of discrimination from any individual, employee, or victim of discrimination as outlined above. If the complaint involves the Human Resources Director, the complaint shall be filed directly with the STC President. STC shall post on employee bulletin boards and on the website the mailing address and telephone number of the Human Resources Director.~~
- ~~3. Submission of a complaint or report of discrimination. Submission of a complaint or report of discrimination will not affect the individual's employment, student status or work assignments.~~
- ~~4. Confidentiality. STC will make attempts to respect the confidentiality of the complainant and the individual(s) against whom the complaint is filed as much as possible consistent with STC's legal obligations and the necessity to investigate allegations of discrimination and take disciplinary action when the conduct has occurred.~~
- ~~5. Procedure. The complainant will be asked to put the facts surrounding the conduct in writing on the Complaint Investigation Form provided by Southeast Tech that includes the following: Complainant's name and address; date of the incident; type of discrimination; description of the incident; name of any witnesses; what action, if any, has been taken; and signature of the complainant.~~

6. ~~Required Reporting.~~ If the accusations include possible criminal activity such as molestation, sexual battery, or similar contact, the Human Resources Director shall comply with mandatory reporting requirements including, but not limited to, contact with local law enforcement.

~~Nothing in this grievance procedure forecloses individuals from seeking redress for their concerns through other legal avenues, such as Law enforcement, the Office of Civil Rights, the Equal Employment Opportunity Commission, or the South Dakota Division of Human Rights.~~

## B. ~~Investigation~~

~~Upon receipt of a written report alleging discrimination, the Human Resources Director shall immediately authorize an investigation. This investigation may be conducted by STC officials or by a third party designated by STC. Human Resources Director shall have the ability to contact a legal advisor during this investigation if warranted. The investigating party shall provide a written report of the status of the investigation within ten (10) working days to the STC President and the Human Resources Director.~~

~~In determining whether alleged conduct constitutes discrimination, STC should consider the surrounding circumstances, the nature of the advances, if any, relationships between the parties involved, and the context in which the alleged incidents occurred.~~

~~The investigation may consist of personal interviews with the complainant, the individual(s) against whom the complaint is filed, and others who may have knowledge of the alleged incident(s) or circumstances giving rise to the complaint. The investigation may also consist of any other methods and documents deemed pertinent by the investigating party. In addition, STC may take immediate steps at its discretion to protect the complainant, students, and the employee's pending completion of an investigation of alleged discrimination.~~

~~During the investigation, all parties directly involved in the complaint may have legal or other representation. If any party elects to be represented at any step of the complaint procedure, the name of the representative must be declared in writing to the Human Resources Director within two (2) days of the filing of the complaint, notification of any investigation, or the filing of any appeal.~~

## C. ~~Southeast Tech Action~~

1. ~~Upon receipt of a recommendation that the allegations of a complaint constitute a violation of STC policy, STC will take such action as appropriate based upon the results of the investigation.~~

2. The results of the investigation into each complaint will be reported in writing and kept on file in the Southeast Tech Human Resources Department. The report shall include findings of fact and will document the action taken, if any, as a result of the complaint.
3. The complainant will be advised of STC's decision in writing within ten (10) working days from the conclusion of the investigation.
4. If either party is not satisfied with the written decision rendered by STC, they may appeal the decision in writing to the STC President within ten (10) working days following the receipt of the decision. The appeal must include the original Complaint Investigation form, a copy of the written decision, and a written statement as to the reason for appeal.
5. The STC President will review the material submitted, investigate the circumstances, and respond in writing within fourteen (14) working days of the appeal with a determination to uphold, modify, or reverse the decision. At the STC President's discretion, an additional investigation may be conducted, including interviews with the complainant, the individual(s) against whom the complaint is filed, and others who may have knowledge of the alleged incident(s) or circumstances giving rise to the complaint. The appeal may include any other methods or documents deemed pertinent by the President.
6. If either party is not satisfied with the decision rendered by the President, they may request a hearing in executive session with the School Board. The request for a hearing must be submitted in writing through the President's Office within ten (10) working days following receipt of the President's response. The appeal must include the original Complaint Investigation form, a copy of the written decision from the President, and a written statement as to the reasons for appeal. The hearing will be scheduled within thirty (30) working days of the request for hearing. The parties involved will be notified in writing of the time and date of the scheduled hearing.
7. The School Board will render a decision in writing within ten (10) working days following the hearing.

D. Prohibition against Retaliation

STC will discipline any individual who retaliates against any person who reports alleged discrimination or who retaliates against any person who testifies, assists, or participates in any investigation, proceeding, or hearing related to a discrimination complaint.

Retaliation includes, but is not limited to, any form of intimidation, reprisal, or discrimination. Retaliation is itself a violation of federal and state laws prohibiting discrimination and may lead to separate disciplinary action against an individual.

~~If any STC personnel or student who has filed a complaint or has testified, assisted, or participated in the investigation of discrimination believes that he or she has been retaliated against because of their participation, they should follow the procedures set forth above.~~

~~E. False Charges~~

~~Charges found to have been intentionally dishonest or made maliciously without regard for truth may subject complainants to disciplinary action.~~

~~F. Uncomfortable Situations~~

~~STC recognizes that not every uncomfortable situation constitutes discrimination. Whether a particular action or incident is a personal, social relationship without a discriminatory employment effect requires a determination based on all the facts and surrounding circumstances. False accusations can have a serious detrimental effect on innocent parties.~~

~~G. Discipline~~

~~Any action taken by STC pursuant to this policy will be consistent with the requirements of STC policies and employee handbook. STC will take such disciplinary action it deems necessary and appropriate, including but not limited to, warning, suspension, or immediate discharge to end discrimination and prevent its recurrence.~~

~~4. Other Related Policies~~

~~STC 706 — STC 706.1 — Harassment (Personnel)~~

~~STC 910 — STC 910.1 — Harassment (Students)~~

~~5. Dissemination of Policy and Training~~

~~The policy is located on STC's website under Consumer Information — Southeast Tech Policies~~

~~Legal References:~~

~~Title VI of the Civil Rights Act of 1964 (discrimination based on origin or race)~~

~~Title IX of the Education Amendments of 1972 (discrimination based on gender)~~

~~Title VII of the Civil Rights Act of 1964 (discrimination based on race, color, creed, religion, gender (including pregnancy), national origin or ancestry).~~

~~Age Discrimination Act of 1975 (discrimination based on age)~~

~~Genetic Information Non-discrimination Act (discrimination based on genetic information) Americans with Disabilities Act (discrimination based on disability)~~

~~Section 504 of the Rehabilitation Act (discrimination based on disability)~~

~~Board Approved: \_\_\_\_\_~~

~~Policy \_\_\_\_\_ Board Action \_\_\_\_\_ (Formerly 1000b, 3000b, 5000b & 6000b)~~

~~adopted: 07-08-85 22227 (Formerly AC/STC 07-01-25)~~

~~amended: 08-12-91 26363A~~  
~~amended: 06-26-95 28182~~  
~~amended: 07-14-97 28842~~  
~~amended: 07-08-02 33293~~  
~~reviewed: 06-09-08 35074~~  
~~amended: 06-22-09 35420~~  
~~amended: 11-08-10 35877~~  
~~amended: 04-23-12 36350~~  
~~amended: 10-27-14 37034~~  
~~amended: 08.01.18 ST00322~~  
~~amended: 10-01-25 ST00959~~

~~Regulation Board Action (Formerly 1350, 4000, 5000)~~  
~~approved: 08-09-76 16808~~  
~~revised: 12-12-77 17395~~  
~~revised: 12-27-89 25139L~~  
~~revised: 06-26-95 28182~~  
~~revised: 07-14-97 28842~~  
~~revised: 07-08-02 33293~~  
~~reviewed: 06-09-08 35074~~  
~~revised: 06-22-09 35420~~  
~~revised: 11-08-10 35877~~  
~~revised: 04-23-12 36350~~  
~~revised: 10-27-14 37034~~  
~~revised: 08.01.18 ST00322~~



**SOUTHEAST**  
Technical College

## HARASSMENT (Withdraw)

Southeast Technical College Policy ~~STC 706~~

### 1. Purpose

~~Southeast Technical College (STC) is committed to providing a learning and working environment free of unlawful harassment based on an individual's race, color, religion, creed, ancestry, national origin, gender, sexual orientation, disability, age, protected military/veteran status, genetic information or other basis prohibited by law.~~

### 2. General Statement of Policy

~~It shall be a violation of this policy for any student or any STC personnel to harass any student, any STC personnel, or any visitor through conduct or communication disparaging a person's race, color, religion, creed, ancestry, national origin, gender, sexual orientation, disability, age, protected military/veteran status, genetic information, or other basis prohibited by law as defined in policy STC 706.1. For the purpose of this policy, "STC personnel" includes School Board members, STC Council, all school employees and agents, volunteers, contractors, or persons subject to the supervision and control of the School District/STC. This policy applies on all School District/STC property and to all School District/STC sponsored, approved, or related activities at any location.~~

~~STC will investigate all complaints of harassment and will discipline or take appropriate action against any student or other school personnel who is found to have violated this policy.~~

~~The District prohibits retaliation against any individual who reports a claim under this policy or participates in an investigation of any such claim.~~

~~Every new employee will be provided a copy of this policy and its regulation. Annually thereafter, employees will receive an overview, along with instructions to access the full policy and regulation on the STC website, and will sign an acknowledgement form indicating they have received the information. STC administrators shall submit the signed form to the Human Resources Department.~~

### 3. Definitions

**Harassment:** ~~Harassment consists of physical or verbal conduct related to a person's race, color, religion, creed, ancestry, national origin, gender, sexual orientation, age, disability, protected military/veteran status, genetic information or other basis prohibited by law when the conduct is severe, pervasive, and objectively offensive and:~~

- a. ~~has the purpose of effecting or creating an intimidating, hostile, or offensive working environment; or~~
- b. ~~has the purpose or effect of substantially or unreasonably interfering with an individual's work performance which deprives the staff member access to employment opportunities or benefits provided by Southeast Technical College.~~

**Sexual Harassment:** ~~Sexual harassment is any unwelcome sexual advance(s), request(s) for sexual favors and/or other verbal, physical, and/or visual contact(s) of a sexual nature, or communication of a sexual nature when:~~

- a. ~~submission to such conduct or communication is made, either explicitly or implicitly, a term of a person's employment; or~~
- b. ~~submission to or rejection of such conduct or communication by an individual is used as the basis for employment decisions affecting the individual; or~~
- c. ~~such conduct or communication has the purpose or effect of interfering with an individual's work, creating an intimidating, hostile, or offensive working environment; or~~
- d. ~~such conduct is so severe or pervasive, and objectively offensive that it has the purpose or effect of depriving the employee access to employment opportunities or benefits provided by STC.~~

~~Sexual harassment may include but is not limited to:~~

- a. ~~unwelcome verbal harassment or abuse based upon gender;~~
- b. ~~unwelcome pressure for sexual activity;~~
- c. ~~unwelcome, gender motivated, or inappropriate patting, pinching, or physical contact;~~
- d. ~~unwelcome behavior or words, based upon gender, including demands for sexual favors, accompanied by implied or overt threats concerning the individual's employment status;~~
- e. ~~unwelcome behavior or words, based upon gender, including demands for sexual favors, accompanied by implied or overt promises of preferential treatment with regard to an individual's employment status.~~

#### ~~4. Reporting Procedures~~

##### ~~Reporting Incidents of Harassment – Grievance Procedures~~

~~Any STC personnel who believes he or she has been the victim of harassment as defined above by a student or an employee of STC shall report the alleged acts immediately to an STC staff member, STC administrator, STC's Human Resource Specialist or STC's Vice President of Student Affairs. A form for reporting harassment is available from STC's Human Resource Department.~~

1. ~~**Designated Personnel.** STC hereby designates STC's Vice President of Student Affairs as the institute's Human Rights Officer to address reports or complaints of harassment. Any STC administrator is designated by STC to receive reports of harassment. Upon receipt of a report of harassment, the administrator shall immediately notify and forward the report to the STC Human Rights Officer. Failure to forward any harassment report or complaint may result in disciplinary action. If the complaint involves the Human Rights Officer, the complaint shall be filed directly with the President.~~
2. ~~**Submission of a complaint or report of harassment.** Submission of a complaint or report of harassment will not affect the individual's employment or work assignments.~~
3. ~~**Confidentiality.** STC will make efforts to respect the confidentiality of the complaining employee and the individual(s) against whom the complaint is asserted to the extent possible consistent with the STC's obligations to investigate allegations of harassment and take disciplinary action, if appropriate.~~
4. ~~**Procedure.** The complaining employee will be asked complete and sign a statement setting forth the facts surrounding the conduct that includes: the complaining employee's name; date of the incident(s); type of harassment; description of the incident(s); name of any witnesses; what action, if any, has been taken.~~
5. ~~**Required Reporting.** If the accusations include possible criminal activity, the Human Rights Officer shall comply with all applicable laws.~~

### **Investigation**

Upon receipt of a written report alleging harassment, the Human Rights Officer shall immediately authorize an investigation. This investigation may be conducted by the Human Rights Officer, other STC officials or by a third party designated by STC. The investigating party shall provide a written report of the status of the investigation within fifteen (15) calendar days to the Human Rights Officer or the President.

In determining whether alleged conduct constitutes harassment, STC should consider the surrounding circumstances, the nature of the advances, relationships between the parties involved, and the context in which the alleged incident(s) occurred.

The investigation may consist of personal interviews with the complainant, the individual(s) against whom the complaint is filed, and others who may have knowledge of the alleged incident(s) or circumstances giving rise to the complaint. The investigation may also consist of any other methods and documents deemed pertinent by the investigating party.

In addition, STC may take immediate steps at its discretion to protect the complainant, students, and employees pending completion of an investigation of alleged harassment.

## **STC Action**

1. ~~If the allegations following an investigation are found to constitute a violation of STC's Harassment Policy (STC 706), STC will take appropriate action.~~
2. ~~The results of the investigation of each complaint will be reported in writing and kept on file in the office of the Human Rights Officer. The report shall include findings of the investigation and will document the disciplinary action taken, if any, as a result of the complaint. STC recognizes that not every uncomfortable situation constitutes harassment. Whether a particular action or incident is a personal, social relationship without a discriminatory work effect requires a determination based on all the facts and surrounding circumstances.~~
3. ~~The complaining employee will be advised of STC's decision in writing.~~
4. ~~If either party is not satisfied with the written decision rendered by the Human Rights Officer, he/she may appeal the decision in writing to the President within ten (10) calendar days following receipt of the Human Rights Officer's decision. The appeal must include the original complaint form, a copy of the written decision, and a written statement as to the reason for appeal.~~
5. ~~The President will review the material submitted and respond in writing within fifteen (15) calendar days of the appeal with a determination to uphold, modify, or reverse the decision of the Human Rights Officer. At the President's discretion, an additional investigation may be conducted, including interviews with the complaining employee, the individual(s) against whom the complaint is filed, and others who may have knowledge of the alleged incident(s) or circumstances giving rise to the complaint. The appeal may also include any other methods or documents deemed pertinent by the President.~~
6. ~~If either party is not satisfied with the decision rendered by the President, he or she they may request a hearing in executive session with the School Board. The request for hearing must be submitted in writing through the President's Office within ten (10) working days following receipt of the President's decision. The appeal must include the original Complaint Investigation form, a copy of the written decision from the President, and a written statement as to the reasons for appeal. The hearing will be scheduled within thirty (30) working days of the request for hearing. The parties involved will be notified in writing of the time and date of the scheduled hearing.~~
7. ~~The School Board will render a decision in writing within ten (10) working days of the hearing.~~

## **Prohibition against Retaliation**

~~STC strictly prohibits and will discipline any individual who retaliates against any person who reports alleged harassment or who retaliates against any person who testifies, assists, or participates in any investigation, proceeding, or hearing related to a harassment complaint.~~

~~Retaliation includes, but is not limited to, any form of intimidation, reprisal, or harassment. Retaliation is itself a violation of federal and state laws prohibiting discrimination and may lead to separate disciplinary action against an individual.~~

~~If any employee who has filed a complaint or has testified, assisted, or participated in the investigation of harassment believes that ~~he or she has~~ they have been retaliated against because of ~~his or her~~ their participation, ~~he or she~~ they should file a complaint following the same procedures set forth above.~~

### **Discipline**

~~Any action taken pursuant to this policy will be consistent with requirements of applicable STC policies and/or negotiated agreements. STC will take such disciplinary action it deems necessary and appropriate, including but not limited to, warning, suspension, or immediate discharge to end harassment and prevent its recurrence.~~

~~Nothing in this regulation forecloses individuals from seeking redress for their concerns through other legal avenues, such as the Office of Civil Rights, the Equal Employment Opportunity Commission, or the South Dakota Division of Human Rights.~~

### ~~5. Dissemination of Policy and Training~~

~~The policy is located on STC's website under Consumer Information — Southeast Tech Policies~~

### ~~6. Related Policies~~

~~STC 105 — Equal Opportunity/Nondiscrimination~~

~~STC 910 — STC 910.1 — Harassment (Student)~~

~~STC 1017 — STC 1017.1 — Public Concerns and Complaints about Personnel~~

### Legal References:

Title VI and VII of the Civil Rights Act of 1964

Title IX of the Education Amendments of 1972

South Dakota Executive Order 81-08

Title II of the Americans with Disabilities Act of 1990

Section 504 of the Rehabilitation Act of 1973

Age Discrimination Act of 1975

Uniform Services Employment and Reemployment Rights Act

Genetic Information Non-discrimination Act

Americans With Disabilities Act and Amendment Act

SDCL Ch. 20-13 South Dakota Human Relation Act of 1972

Board Approved:

<del>Policy</del>	<del>Board Action</del>	<del>(formerly 4132)</del>
<del>adopted: 07-08-85</del>	<del>22227</del>	
<del>amended: 04-13-92</del>	<del>26837T</del>	
<del>amended: 02-28-94</del>	<del>27602.2f</del>	
<del>amended: 04-14-97</del>	<del>28758</del>	
<del>amended: 07-12-99</del>	<del>29400</del>	
<del>amended: 11-08-99</del>	<del>29468</del>	
<del>amended: 07-08-02</del>	<del>33293</del>	
<del>amended: 10-27-08</del>	<del>35194</del>	
<del>amended: 12-13-10</del>	<del>35907</del>	
<del>amended: 10-27-14</del>	<del>37034</del>	

<del>Regulation</del>	<del>Board Action</del>	<del>(formerly 4132)</del>
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## ~~Policies and Regulations~~

~~NEPN Code: GBAA-R/STI~~

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### Personnel

### Harassment

#### Definitions

- ~~1. **Harassment:** Harassment consists of physical or verbal conduct related to a person's race, color, religion, creed, ancestry, national origin, gender, sexual orientation, age, disability, protected military/veteran status, genetic information or other basis prohibited by law when the conduct is severe, pervasive, and objectively offensive and:~~
  - ~~a. has the purpose of effecting or creating an intimidating, hostile, or offensive working environment; or~~
  - ~~b. has the purpose or effect of substantially or unreasonably interfering with an individual's work performance which deprives the staff member access to employment opportunities or benefits provided by Southeast Technical College.~~
- ~~2. **Sexual Harassment:** Sexual harassment is any unwelcome sexual advance(s), request(s) for sexual favors and/or other verbal, physical, and/or visual contact(s) of a sexual nature, or communication of a sexual nature when:~~
  - ~~a. submission to such conduct or communication is made, either explicitly or implicitly, a term of a person's employment; or~~
  - ~~b. submission to or rejection of such conduct or communication by an individual is used as the basis for employment decisions affecting the individual; or~~
  - ~~c. such conduct or communication has the purpose or effect of interfering with an individual's work, creating an intimidating, hostile, or offensive working environment;~~

or

~~d. such conduct is so severe or pervasive, and objectively offensive that it has the purpose or effect of depriving the employee access to employment opportunities or benefits provided by STC.~~

Sexual harassment may include but is not limited to:

~~a. unwelcome verbal harassment or abuse based upon gender;~~

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~~b. unwelcome pressure for sexual activity;~~

~~c. unwelcome, gender motivated, or inappropriate patting, pinching, or physical contact;~~

~~d. unwelcome behavior or words, based upon gender, including demands for sexual favors, accompanied by implied or overt threats concerning the individual's employment status;~~

~~e. unwelcome behavior or words, based upon gender, including demands for sexual favors, accompanied by implied or overt promises of preferential treatment with regard to an individual's employment status.~~

### **Reporting Incidents of Harassment—Grievance Procedures**

~~Any STC personnel who believes he or she has been the victim of harassment as defined above by a student or an employee of STC shall report the alleged acts immediately to an STC staff member, STC administrator, STC's Human Resource Specialist or STC's Vice President of Student Affairs. A form for reporting harassment is available from STC's Human Resource Department.~~

~~1. **Designated Personnel.** STC hereby designates STC's Vice President of Student Affairs as the institute's Human Rights Officer to address reports or complaints of harassment. Any STC administrator is designated by STC to receive reports of harassment. Upon receipt of a report of harassment, the administrator shall immediately notify and forward the report to the STC Human Rights Officer. Failure to forward any harassment report or complaint may result in disciplinary action. If the complaint involves the Human Rights Officer, the complaint shall be filed directly with the President.~~

- ~~2. **Submission of a complaint or report of harassment.** Submission of a complaint or report of harassment will not affect the individual's employment or work assignments.~~
- ~~3. **Confidentiality.** STC will make efforts to respect the confidentiality of the complaining employee and the individual(s) against whom the complaint is asserted to the extent possible consistent with the STC's obligations to investigate allegations of harassment and take disciplinary action, if appropriate.~~
- ~~4. **Procedure.** The complaining employee will be asked complete and sign a statement setting forth the facts surrounding the conduct that includes: the complaining employee's name; date of the incident(s); type of harassment; description of the incident(s); name of any witnesses; what action, if any, has been taken.~~
- ~~5. **Required Reporting.** If the accusations include possible criminal activity, the Human Rights Officer shall comply with all applicable laws.~~

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### **Investigation**

~~Upon receipt of a written report alleging harassment, the Human Rights Officer shall immediately authorize an investigation. This investigation may be conducted by the Human Rights Officer, other STC officials or by a third party designated by STC. The investigating party shall provide a written report of the status of the investigation within fifteen (15) calendar days to the Human Rights Officer or the President.~~

~~In determining whether alleged conduct constitutes harassment, STC should consider the surrounding circumstances, the nature of the advances, relationships between the parties involved, and the context in which the alleged incident(s) occurred.~~

~~The investigation may consist of personal interviews with the complainant, the individual(s) against whom the complaint is filed, and others who may have knowledge of the alleged incident(s) or circumstances giving rise to the complaint. The investigation may also consist of any other methods and documents deemed pertinent by the investigating party.~~

~~In addition, STC may take immediate steps at its discretion to protect the complainant, students, and employees pending completion of an investigation of alleged harassment.~~

### **STC Action**

- ~~1. If the allegations following an investigation are found to constitute a violation of STC's Harassment Policy (GBAA/STI), STC will take appropriate action.~~
- ~~2. The results of the investigation of each complaint will be reported in writing and kept on file in the office of the Human Rights Officer. The report shall include findings of the investigation and will document the disciplinary action taken, if any, as a result of the complaint. STC recognizes that not every uncomfortable situation constitutes harassment. Whether a particular action or incident is a personal, social relationship without a discriminatory work effect requires a determination based on all the facts and surrounding circumstances.~~
- ~~3. The complaining employee will be advised of STC's decision in writing.~~
- ~~4. If either party is not satisfied with the written decision rendered by the Human Rights Officer, he/she may appeal the decision in writing to the President within ten (10) calendar days following receipt of the Human Rights Officer's decision. The appeal must include the original complaint form, a copy of the written decision, and a written statement as to the reason for appeal.~~
- ~~5. The President will review the material submitted and respond in writing within fifteen (15) calendar days of the appeal with a determination to uphold, modify, or reverse the decision of the Human Rights Officer. At the President's discretion, an additional~~

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~~investigation may be conducted, including interviews with the complaining employee, the individual(s) against whom the complaint is filed, and others who may have knowledge of the alleged incident(s) or circumstances giving rise to the complaint. The appeal may also include any other methods or documents deemed pertinent by the President.~~

- ~~6. If either party is not satisfied with the decision rendered by the President, he or she may request a hearing in executive session with the School Board. The request for hearing must be submitted in writing through the President's Office within ten (10) working days following receipt of the President's decision. The appeal must include the original Complaint Investigation form, a copy of the written decision from the President, and a written statement as to the reasons for appeal. The hearing will be scheduled within thirty (30) working days of the request for hearing. The parties involved will be notified in writing of the time and date of the scheduled hearing.~~
- ~~7. The School Board will render a decision in writing within ten (10) working days of the hearing.~~

## **Prohibition against Retaliation**

STC strictly prohibits and will discipline any individual who retaliates against any person who reports alleged harassment or who retaliates against any person who testifies, assists, or participates in any investigation, proceeding, or hearing related to a harassment complaint.

Retaliation includes, but is not limited to, any form of intimidation, reprisal, or harassment. Retaliation is itself a violation of federal and state laws prohibiting discrimination and may lead to separate disciplinary action against an individual.

If any employee who has filed a complaint or has testified, assisted, or participated in the investigation of harassment believes that he or she has been retaliated against because of his or her participation, he or she should file a complaint following the same procedures set forth above.

## **Discipline**

Any action taken pursuant to this policy will be consistent with requirements of applicable STC policies and/or negotiated agreements. STC will take such disciplinary action it deems necessary and appropriate, including but not limited to, warning, suspension, or immediate discharge to end harassment and prevent its recurrence.

Nothing in this regulation forecloses individuals from seeking redress for their concerns through other legal avenues, such as the Office of Civil Rights, the Equal Employment Opportunity Commission, or the South Dakota Division of Human Rights.

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Legal References: ~~— Title VI and VII of the Civil Rights Act of 1964  
Title IX of the Education Amendments of 1972  
South Dakota Executive Order 81-08  
Title II of the Americans with Disabilities Act of 1990  
Section 504 of the Rehabilitation Act of 1973  
Age Discrimination Act of 1975  
Uniform Services Employment and Reemployment Rights Act  
Genetic Information Non-discrimination Act  
Americans With Disabilities Act and Amendment Act  
SDCL Ch. 20-13 South Dakota Human Relation Act of 1972~~

~~RELATED POLICIES~~

~~AC/STI – AC R/STI – Equal Opportunity/Nondiscrimination~~

~~JIAA/STI – JIAA R/STI – Harassment (Student)~~

~~KEB/STI – KEB R/STI – Public Concerns and Complaints about Personnel~~

~~Regulation – Board Action – (formerly 4132)~~  
~~approved: 04-13-92 – 26837T~~  
~~amended: 02-28-94 – 27602.2f~~  
~~revised: 04-14-97 – 28758~~  
~~revised: 07-12-99 – 29400~~  
~~revised: 07-08-02 – 33293~~  
~~revised: 10-27-08 – 35194~~  
~~revised: 12-13-10 – 35907~~  
~~revised: 10-27-14 – 37034~~



**SOUTHEAST**  
Technical College

## HARASSMENT (Withdraw)

Southeast Technical College Policy ~~STC 910~~

### ~~1. Purpose~~

~~Southeast Technical College is committed to providing a learning and working environment free of unlawful harassment.~~

~~It is a violation of this policy for any student or any school personnel at Southeast Tech to harass a student, any school personnel, or any visitor through conduct or communication of a sexual nature, including sexual violence or communication disparaging a person's race, color, religion, creed, ancestry, national origin, gender (including pregnancy), sexual orientation, disability, genetic information, parental status or marital status or any other basis protected by law defined in Policy ~~STC 910.1~~.~~

### ~~2. General Statement of Policy~~

~~Southeast Tech and the District will act to investigate all complaints of harassment and will discipline or take appropriate action against any student or other school personnel who is found to have violated this policy.~~

~~Southeast Tech prohibits retaliation against any individual who reports a claim under this policy or participates in an investigation of any such claim.~~

### ~~3. Definitions~~

~~For the purpose of this policy, **school personnel** includes School Board members, all District/Southeast Tech employees and agents, volunteers, contractors, or persons subject to the supervision and control of Southeast Tech. This policy applies on all District / Southeast Tech property and to all School District/Southeast Tech sponsored, approved, or related activities at any location.~~

~~**Harassment:** Harassment consists of physical or verbal conduct related to a person's race, color, religion, creed, ancestry, national origin, gender (including pregnancy), sexual orientation, age, disability, parental status or marital status or any other basis protected by law, when the conduct is severe or pervasive, and objectively offensive that it:~~

~~a. has the purpose of effecting or creating an intimidating, hostile, or offensive academic environment, or~~

~~b. has the purpose or effect of substantially or unreasonably interfering with a student's academic performance which deprives the student access to educational opportunities.~~

~~**Sexual Harassment:** Sexual harassment is any unwelcome sexual advance(s), request(s) for sexual favors, and/or other verbal, physical and/or visual contact(s) of a sexual nature, or communication of a sexual nature, including sexual violence when:~~

- ~~a.— submission to such conduct or communication is made, either explicitly or implicitly, a term of a student's academic status or progress;~~
- ~~b.— submission or rejection of such conduct or communication by a student is used as the basis of educational decisions affecting the student; or~~
- ~~c.— submission to or rejection of the conduct or communication by the student is used as the basis for any decision affecting the student regarding benefits and services, honors, programs, or activities available at or through the school; or~~
- ~~d.— such conduct is so severe, pervasive, and objectively offensive that such conduct or communication has the purpose or effect of depriving the student access to educational opportunities or benefits provided by the school.~~

~~Sexual harassment may include, but is not limited to, the following conduct when such conduct is severe, pervasive, and objectively offensive:~~

- ~~a.— unwelcome verbal harassment or abuse based upon gender;~~
- ~~b.— unwelcome pressure for sexual activity;~~
- ~~c.— unwelcome, gender motivated, or inappropriate patting, pinching, or physical contact, other than necessary restraint of students by instructors, administrators, or other school personnel to avoid physical harm to persons or property;~~
- ~~d.— unwelcome behavior or words, based upon gender, including demands for sexual favors, accompanied by implied or overt threats concerning a student's educational status;~~
- ~~e.— unwelcome behavior or words, based upon gender, including demands for sexual favors, accompanied by implied or overt promises of preferential treatment with regard to a student's educational status; or~~
- ~~f.— sexual violence which includes: physical sexual acts against a person's will, or where a person is incapable of giving consent.~~

#### ~~4. Reporting Procedures~~

##### ~~A. Reporting Incidents of Harassment — Grievance Procedures~~

~~Any student or parent of any minor student who believes he or she has been the victim of harassment as defined above by a student or by school personnel of Southeast Technical College shall report the alleged acts immediately to an Southeast Tech staff member, Southeast Tech administrator, Southeast Tech's Human Resource Specialist, Civil Rights Officer/Title IX Coordinator or Southeast Tech's Vice~~

President of Student Affairs on the Complaint Investigation form available from Southeast Tech's Human Resources Department.

1. **Designated Personnel.** Southeast Tech hereby designates Southeast Tech's Vice President of Student Affairs as the Institute's Civil Rights Officer/Title IX Coordinator to address reports or complaints of harassment from a student. Any Southeast Tech administrator is designated by Southeast Tech to receive reports of harassment.

Before a student makes a report of sexual violence, the supervisor should inform the student 1) of the obligation to report the names of the alleged perpetrator and student involved as well as relevant facts to the Civil Rights Officer/Title IX Coordinator; 2) the student's option to request that Southeast Tech maintain his or her confidentiality, which the Civil Rights Officer/Title IX Coordinator will consider; and 3) that the student has the ability to share information confidentially with counseling services.

Upon receipt of a report of harassment, the supervisor shall ask the individual to complete the Complaint Investigation form and immediately notify the Civil Rights Officer/Title IX Coordinator and forward the report to the Southeast Tech Civil Rights Officer/Title IX Coordinator. Failure to forward any harassment report or complaint as provided herein will result in disciplinary action. If the complaint involves the Civil Rights Officer/Title IX Coordinator, the complaint shall be filed directly with the President. Southeast Tech shall post in the Southeast Tech Student Catalog/Handbook and the website the name of the Civil Rights Officer/Title IX Coordinator including a mailing address and telephone number.

2. **Submission of a complaint or report of harassment.** Submission of a complaint or report of harassment will not affect the student's employment, grades or work assignments.
3. **Confidentiality.** Southeast Tech will make attempts to respect the confidentiality of the complainant and the individual(s) against whom the complaint is filed as much as possible consistent with Southeast Tech's legal obligations and the necessity to investigate allegations of harassment and take appropriate disciplinary action when the conduct has occurred.
4. **Procedure.** The Complainant will be asked to put the facts surrounding the conduct in writing on the Complaint Investigation form provided by Southeast Tech that includes: Complainant's name and address; date of the incident; type of harassment; description of the incident(s); name of any witnesses; what action, if any, has been taken; and signature of the complainant.
5. **Required Reporting.** If the accusations include possible criminal activity such as molestation, sexual battery, or similar contact,, the Civil Rights Officer/Title IX Coordinator shall comply with all mandatory state reporting requirements including, but not limited to, contact with the State Department of Social Services.

Nothing in this grievance procedure forecloses individuals from seeking redress for their concerns through other legal avenues, such as the Office of Civil Rights, the Equal Employment Opportunity Commission or the South Dakota Division of Civil Rights.

## **~~B. Investigation~~**

~~Upon receipt of a written report alleging harassment, the Civil Rights Officer/Title IX Coordinator shall immediately authorize an investigation. This investigation may be conducted by the Civil Rights Officer/Title IX Coordinator, other Southeast Tech officials or by a third party designated by Southeast Tech. The investigating party shall provide a written report of the status of the investigation within ten (10) working days to the Civil Rights Officer/Title IX Coordinator.~~

~~In determining whether alleged conduct constitutes harassment, Southeast Tech should consider the surrounding circumstances, the nature of the advances, if any, relationships between the parties involved, and the context in which the alleged incident(s) occurred.~~

~~The investigation may consist of personal interviews with the complainant, the individual(s) against whom the complaint is filed, and others who may have knowledge of the alleged incident(s) or circumstances giving rise to the complaint. The investigation may also consist of any other methods and documents deemed pertinent by the investigating party.~~

~~In addition, Southeast Tech may take immediate steps, at its discretion, to protect the complainant, students, and employees pending completion of an investigation of alleged harassment.~~

~~During the investigation all parties directly involved in the complaint may have legal or other representation. If any party elects to be represented at any step of the complaint procedure, the name of the representative must be provided in writing to the Civil Rights Officer/Title IX Coordinator within two (2) days of the filing of the complaint, notification of an investigation, or the filing of any appeal.~~

## **~~C. Southeast Tech Action~~**

- ~~1. Upon receipt of a recommendation that allegations of a complaint constitute a violation of Southeast Tech's policy, Southeast Tech will take such action as appropriate based upon the results of the investigation. A finding will be determined on the basis of whether or not it is more likely than not the conduct as alleged occurred.~~
- ~~2. The results of the investigation of each complaint will be reported in writing and kept on file in the Southeast Tech Human Resources Department. The report shall include findings of fact and will document the disciplinary action taken, if any, as a result of the complaint.~~
- ~~3. The complainant will be advised of Southeast Tech's decision in writing on a form supplied by Southeast Tech within ten (10) working days from the conclusion of the investigation.~~
- ~~4. If either party is not satisfied with the written decision rendered by the Civil Rights Officer/Title IX Coordinator, he/she may appeal the decision in writing to the President within ten (10) calendar days following receipt of the Civil Rights Officer/Title IX Coordinator's decision. The~~

appeal must include the original complaint form, a copy of the written decision, and a written statement as to the reason for appeal.

5. The President will review the material submitted, investigate the circumstances, and respond in writing within fourteen (14) working days of the appeal with a determination to uphold, modify, or reverse the decision of the Civil Rights Officer/Title IX Coordinator. At the President's discretion, an additional investigation may be conducted, including interviews with the complainant, the individual(s) against whom the complaint is filed, and others who may have knowledge of the alleged incident(s) or circumstances giving rise to the complaint. The appeal may also include any other methods or documents deemed pertinent by the President.
6. If either party is not satisfied with the decision rendered by the President, he or she may request a hearing in executive session with the School Board. The request for hearing must be submitted in writing through the President's office within ten (10) working days following receipt of the President's response. The appeal must include the original Complaint Investigation form, a copy of the written decision from the President, and a written statement as to the reasons for appeal. The hearing will be scheduled within thirty (30) working days of the request for the hearing. The parties involved will be notified in writing of the time and date of the scheduled hearing.
7. The School Board will render a decision in writing within ten (10) working days following the hearing.

#### **D. Prohibition against Retaliation**

Southeast Tech strictly prohibits and will discipline any individual who retaliates against any person who reports alleged harassment or who retaliates against any person who testifies, assists, or participates in any investigation, proceeding, or hearing related to a harassment complaint.

Retaliation includes, but is not limited to, any form of intimidation, reprisal, or harassment. Retaliation is itself a violation of federal and state laws prohibiting discrimination and may lead to separate disciplinary action against an individual.

If any student who has filed a complaint or has testified, assisted or participated in the investigation of harassment believes that he or she has been retaliated against because of his or her participation, he or she should file a complaint following the same procedures set forth above.

#### **E. False Charges**

Charges found to have been intentionally dishonest or made maliciously without regard for truth may subject complainants to disciplinary action.

#### **F. Uncomfortable Situations**

~~Southeast Tech recognizes that not every uncomfortable situation constitutes harassment. Whether a particular action or incident is a personal, social relationship without a discriminatory educational effect requires a determination based on all the facts and surrounding circumstances. False accusations can have a serious detrimental effect on innocent parties.~~

#### ~~G. Discipline~~

~~Any action taken by Southeast Tech pursuant to this policy will be consistent with requirements of applicable Southeast Tech policies. Southeast Tech will take disciplinary action it deems necessary and appropriate, including but not limited to, warning, suspension, or immediate discharge to end harassment and prevent its recurrence.~~

#### ~~5. Related Policies~~

~~STC 105 – Equal Opportunity/Nondiscrimination  
STC 706 – STC 706.1 – Harassment (Personnel)~~

#### ~~6. Dissemination of Policy and Training~~

~~This policy shall be communicated to all students through the Southeast Tech Student Catalog/Handbook.~~

~~The policy is located on STC's website under Consumer Information – Southeast Tech Policies~~

#### Legal References:

~~Title VII of the Civil Rights Act of 1964  
Title IX of the Education Amendments of 1972  
South Dakota Executive Order 81-08  
Title II of the Americans with Disabilities Act of 1990  
Section 504 of the Rehabilitation Act of 1973~~

#### Board Approved: \_\_\_\_\_

Policy _____	Board Action
Adopted: _____ 03-22-04 _____	33778 _____ (formerly JIAA/STC _____ 07-01-25)
reviewed: _____ 05-14-07 _____	34724
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approved: _____ 03-22-04 _____	33778 _____ (formerly JIAA R/STC _____ 07-01-25)
revised: _____ 05-14-07 _____	34724
amended: _____ 06-14-10 _____	35729
amended: _____ 03-26-12 _____	36325
amended: _____ 10-07-15 _____	ST00078

## ~~Policies and Regulations~~

~~NEPN Code: JIAA-R/STI~~

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### Students

#### Harassment

##### ~~A. Definitions~~

~~1. Harassment:~~ Harassment consists of physical or verbal conduct related to a person's race, color, religion, creed, ancestry, national origin, gender (including pregnancy), sexual orientation, age, disability, parental status or marital status or any other basis protected by law, when the conduct is severe or pervasive, and objectively offensive that it:

~~a. has the purpose of effecting or creating an intimidating, hostile, or offensive academic environment, or~~

~~b. has the purpose or effect of substantially or unreasonably interfering with a student's academic performance which deprives the student access to educational opportunities.~~

~~2. Sexual Harassment:~~ Sexual harassment is any unwelcome sexual advance(s), request(s) for sexual favors, and/or other verbal, physical and/or visual contact(s) of a sexual nature, or communication of a sexual nature, including sexual violence when:

~~a. submission to such conduct or communication is made, either explicitly or implicitly, a term of a student's academic status or progress;~~

~~b. submission or rejection of such conduct or communication by a student is used as the basis of educational decisions affecting the student; or~~

- ~~e. submission to or rejection of the conduct or communication by the student is used as the basis for any decision affecting the student regarding benefits and services, honors, programs, or activities available at or through the school; or~~
- ~~d. such conduct is so severe, pervasive, and objectively offensive that such conduct or communication has the purpose or effect of depriving the student access to educational opportunities or benefits provided by the school.~~

Sexual harassment may include, but is not limited to, the following conduct when such conduct is severe, pervasive, and objectively offensive:

- ~~a. unwelcome verbal harassment or abuse based upon gender;~~

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- ~~b. unwelcome pressure for sexual activity;~~
- ~~c. unwelcome, gender motivated, or inappropriate patting, pinching, or physical contact, other than necessary restraint of students by instructors, administrators, or other school personnel to avoid physical harm to persons or property;~~
- ~~d. unwelcome behavior or words, based upon gender, including demands for sexual favors, accompanied by implied or overt threats concerning a student's educational status;~~
- ~~e. unwelcome behavior or words, based upon gender, including demands for sexual favors, accompanied by implied or overt promises of preferential treatment with regard to a student's educational status; or~~
- ~~f. sexual violence which includes: physical sexual acts against a person's will, or where a person is incapable of giving consent.~~

## ~~B. Reporting Incidents of Harassment—Grievance Procedures~~

~~Any student or parent of any minor student who believes he or she has been the victim of harassment as defined above by a student or by school personnel of Southeast Technical College shall report the alleged acts immediately to an Southeast Tech staff member, Southeast Tech administrator, Southeast Tech's Human Resource Specialist, Civil Rights Officer/Title IX Coordinator or Southeast Tech's Vice President of Student Affairs on the Complaint Investigation form available from Southeast Tech's Human Resources Department.~~

- ~~1. Designated Personnel. Southeast Tech hereby designates Southeast Tech's Vice President~~

of Student Affairs as the Institute's Civil Rights Officer/Title IX Coordinator to address reports or complaints of harassment from a student. Any Southeast Tech administrator is designated by Southeast Tech to receive reports of harassment.

Before a student makes a report of sexual violence, the supervisor should inform the student 1) of the obligation to report the names of the alleged perpetrator and student involved as well as relevant facts to the Civil Rights Officer/Title IX Coordinator; 2) the student's option to request that Southeast Tech maintain his or her confidentiality, which the Civil Rights Officer/Title IX Coordinator will consider; and 3) that the student has the ability to share information confidentially with counseling services.

Upon receipt of a report of harassment, the supervisor shall ask the individual to complete the Complaint Investigation form and immediately notify the Civil Rights Officer/Title IX Coordinator and forward the report to the Southeast Tech Civil Rights Officer/Title IX Coordinator. Failure to forward any harassment report or complaint as provided herein will result in disciplinary action. If the complaint involves the Civil Rights Officer/Title IX Coordinator, the complaint shall be filed directly with the President. Southeast Tech shall post in the Southeast Tech

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Student Catalog/Handbook and the website the name of the Civil Rights Officer/Title IX Coordinator including a mailing address and telephone number.

2. **Submission of a complaint or report of harassment.** Submission of a complaint or report of harassment will not affect the student's employment, grades or work assignments.
3. **Confidentiality.** Southeast Tech will make attempts to respect the confidentiality of the complainant and the individual(s) against whom the complaint is filed as much as possible consistent with Southeast Tech's legal obligations and the necessity to investigate allegations of harassment and take appropriate disciplinary action when the conduct has occurred.
4. **Procedure.** The Complainant will be asked to put the facts surrounding the conduct in writing on the Complaint Investigation form provided by Southeast Tech that includes: Complainant's name and address; date of the incident; type of harassment; description of the incident(s); name of any witnesses; what action, if any, has been taken; and signature of the complainant.
5. **Required Reporting.** If the accusations include possible criminal activity such as molestation, sexual battery, or similar contact,, the Civil Rights Officer/Title IX Coordinator

~~shall comply with all mandatory state reporting requirements including, but not limited to, contact with the State Department of Social Services.~~

~~Nothing in this grievance procedure forecloses individuals from seeking redress for their concerns through other legal avenues, such as the Office of Civil Rights, the Equal Employment Opportunity Commission or the South Dakota Division of Civil Rights.~~

### ~~C. Investigation~~

~~Upon receipt of a written report alleging harassment, the Civil Rights Officer/Title IX Coordinator shall immediately authorize an investigation. This investigation may be conducted by the Civil Rights Officer/Title IX Coordinator, other Southeast Tech officials or by a third party designated by Southeast Tech. The investigating party shall provide a written report of the status of the investigation within ten (10) working days to the Civil Rights Officer/Title IX Coordinator.~~

~~In determining whether alleged conduct constitutes harassment, Southeast Tech should consider the surrounding circumstances, the nature of the advances, if any, relationships between the parties involved, and the context in which the alleged incident(s) occurred.~~

~~The investigation may consist of personal interviews with the complainant, the individual(s) against whom the complaint is filed, and others who may have knowledge of the alleged incident(s) or circumstances giving rise to the complaint. The investigation may also consist of any other methods and documents deemed pertinent by the investigating party.~~

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~~In addition, Southeast Tech may take immediate steps, at its discretion, to protect the complainant, students, and employees pending completion of an investigation of alleged harassment.~~

~~During the investigation all parties directly involved in the complaint may have legal or other representation. If any party elects to be represented at any step of the complaint procedure, the name of the representative must be provided in writing to the Civil Rights Officer/Title IX Coordinator within two (2) days of the filing of the complaint, notification of an investigation, or the filing of any appeal.~~

### ~~D. Southeast Tech Action~~

- ~~1. Upon receipt of a recommendation that allegations of a complaint constitute a violation of Southeast Tech's policy, Southeast Tech will take such action as appropriate based upon~~

~~the results of the investigation. A finding will be determined on the basis of whether or not it is more likely than not the conduct as alleged occurred.~~

- ~~2. The results of the investigation of each complaint will be reported in writing and kept on file in the Southeast Tech Human Resources Department. The report shall include findings of fact and will document the disciplinary action taken, if any, as a result of the complaint.~~
- ~~3. The complainant will be advised of Southeast Tech's decision in writing on a form supplied by Southeast Tech within ten (10) working days from the conclusion of the investigation.~~
- ~~4. If either party is not satisfied with the written decision rendered by the Civil Rights Officer/Title IX Coordinator, he/she may appeal the decision in writing to the President within ten (10) calendar days following receipt of the Civil Rights Officer/Title IX Coordinator's decision. The appeal must include the original complaint form, a copy of the written decision, and a written statement as to the reason for appeal.~~
- ~~5. The President will review the material submitted, investigate the circumstances, and respond in writing within fourteen (14) working days of the appeal with a determination to uphold, modify, or reverse the decision of the Civil Rights Officer/Title IX Coordinator. At the President's discretion, an additional investigation may be conducted, including interviews with the complainant, the individual(s) against whom the complaint is filed, and others who may have knowledge of the alleged incident(s) or circumstances giving rise to the complaint. The appeal may also include any other methods or documents deemed pertinent by the President.~~
- ~~6. If either party is not satisfied with the decision rendered by the President, he or she may request a hearing in executive session with the School Board. The request for hearing must be submitted in writing through the President's office~~

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~~within ten (10) working days following receipt of the President's response. The appeal must include the original Complaint Investigation form, a copy of the written decision from the President, and a written statement as to the reasons for appeal. The hearing will be scheduled within thirty (30) working days of the request for the hearing. The parties involved will be notified in writing of the time and date of the scheduled hearing.~~

~~7. The School Board will render a decision in writing within ten (10) working days following the hearing.~~

#### ~~E. Prohibition against Retaliation~~

~~Southeast Tech strictly prohibits and will discipline any individual who retaliates against any person who reports alleged harassment or who retaliates against any person who testifies, assists, or participates in any investigation, proceeding, or hearing related to a harassment complaint.~~

~~Retaliation includes, but is not limited to, any form of intimidation, reprisal, or harassment. Retaliation is itself a violation of federal and state laws prohibiting discrimination and may lead to separate disciplinary action against an individual.~~

~~If any student who has filed a complaint or has testified, **assisted** or participated in the investigation of harassment believes that he or she has been retaliated against because of his or her participation, he or she should file a complaint following the same procedures set forth above.~~

#### ~~F. False Charges~~

~~Charges found to have been intentionally dishonest or made maliciously without regard for truth may subject complainants to disciplinary action.~~

#### ~~G. Uncomfortable Situations~~

~~Southeast Tech recognizes that not every uncomfortable situation constitutes harassment. Whether a particular action or incident is a personal, social relationship without a discriminatory educational effect requires a determination based on all the facts and surrounding circumstances. False accusations can have a serious detrimental effect on innocent parties.~~

#### ~~H. Discipline~~

~~Any action taken by Southeast Tech pursuant to this policy will be consistent with requirements of applicable Southeast Tech policies. Southeast Tech will take disciplinary action it deems necessary and appropriate, including but not limited to, warning, suspension, or immediate discharge to end harassment and prevent its recurrence.~~

~~Title VI of the Civil Rights Act of 1964~~  
~~Title IX of the Education Amendments of 1972~~  
~~South Dakota Executive Order 81-08~~  
~~Title II of the Americans with Disabilities Act of 1990~~  
~~Section 504 of the Rehabilitation Act of 1973~~

<del>Regulation</del>	<del>Board Action</del>
<del>approved: 03-22-04</del>	<del>33778</del>
<del>revised: 05-14-07</del>	<del>34724</del>
<del>amended: 06-14-10</del>	<del>35729</del>
<del>amended: 03-26-12</del>	<del>36325</del>
<del>amended: 10-07-15</del>	<del>ST00078</del>



**SOUTHEAST**  
Technical College

## ~~SEX/GENDER HARASSMENT, DISCRIMINATION AND MISCONDUCT (Withdraw)~~ ~~Southeast Technical College Policy STC 914~~

### ~~1. Purpose~~

~~Members of the Southeast Tech community, guests and visitors have the right to be free from all forms of sex/gender harassment, discrimination and misconduct, examples of which can include acts of sexual violence, sexual harassment, domestic violence, dating violence, and stalking. All members of the campus community are expected to conduct themselves in a manner that does not infringe upon the rights of others. Southeast Tech believes in zero tolerance for sex/gender based misconduct. When an allegation of misconduct is brought to the appropriate administrator's attention, protective and other remedial measures will be used to reasonably ensure that such conduct ends, is not repeated, and the effects on the victim and community are remedied. Sanctions will be imposed if, after an investigation, a responding party is found to have violated this policy. This policy has been developed to reaffirm these principles and provide recourse for those individuals whose rights have been violated. This policy is intended to define expectations and establish a mechanism for determining when those expectations have been violated.~~

### ~~2. General Statement of Policy~~

~~Southeast Tech~~STC is committed to providing a workplace and educational environment, as well as other benefits, programs, and activities, that are free from sexual harassment and retaliation. To ensure compliance with federal and state civil rights laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the educational program or activity, ~~Southeast Tech~~STC has developed this policy and related procedures to provide a prompt, fair, and impartial process for those involved in an allegation of sexual harassment or retaliation as defined by this policy. Southeast TechSTC values and upholds the equal dignity of all members of its community and strives to balance the rights of the parties in the grievance process during what is often a difficult time for all those involved.

#### Applicable Scope

~~This policy and associated procedures apply to all allegations of sexual harassment as defined in this policy occurring in connection with Southeast Tech's~~STC's education program or activity within the United States. Alleged incidents of sexual discrimination or harassment not covered by this policy may be covered under other ~~Southeast Tech's~~STC's policies. At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in the education program or activity of ~~Southeast Tech~~STC, and the Respondent must be a member of the ~~Southeast Tech~~STC community. This community includes, but is not limited to, students, student organizations, faculty, administrators, staff, and third parties such as guests, visitors, volunteers, and invitees.

### 3. Definitions

- *Advisor* means a person, who may be, but is not required to be an attorney, chosen by a party or appointed by the institution to accompany the party to meetings related to the Grievance Process, to advise the party on that process, and to conduct cross-examination for the party at the hearing, if any.
- *Appeal Decision maker* refers to those who have decision-making authority within Appeals as part of the Grievance Process.
- *Complainant* means an individual who is alleged to be the victim of conduct that could constitute sexual harassment or retaliation for engaging in a protected activity. A Complainant must be participating in or attempting to participate in a Southeast TechSTC education program or activity at the time of filing the Formal Complaint.
- *Confidential Resource* means an employee who is not a Mandated Reporter of notice of harassment and/or retaliation (irrespective of Clery Act Campus Security Authority status).
- *Day* means a business day when Southeast TechSTC is in normal operation.
- *Decision maker(s)* means the Hearing Decision maker, the Appeal Decision maker, the Disciplinary Sanctions Decision maker, or any combination thereof.
- *Disciplinary Sanction* means a consequence imposed by Southeast TechSTC on a Respondent who is found to have violated this policy. Disciplinary sanctions are not supportive measures and may be punitive and may burden the Respondent.
- *Disciplinary Sanction Decision maker* refers to those who have decision-making authority in determining disciplinary sanctions as part of the Grievance process.
- *Education program or activity* means locations, events, or circumstances where Southeast TechSTC exercises substantial control over both the Respondent and the context in which the sexual harassment occurs and also includes any building owned or controlled by a student organization that is officially recognized by Southeast TechSTC.
- *Final Determination* means a conclusion by the preponderance of evidence standard that the alleged conduct did or did not violate policy.
- *Finding* means a conclusion by the preponderance of evidence standard that the conduct did or did not occur as alleged (as in a "finding of fact").
- *Formal Complaint* means a document submitted and signed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment or retaliation against a Respondent and requesting that Southeast TechSTC investigate the allegation. At the time of submitting the Formal Complaint, a Complainant must be participating in or attempting to participate in the education program or activity of Southeast TechSTC.
- *Grievance Process*, also referred to as "Process A," means the resolution process designated by Southeast TechSTC to address conduct that falls within this policy, and which complies with the requirements of the Title IX regulations (34 CFR §106.45).

- ~~Grievance Process Pool includes any investigators, informal resolution facilitators, hearing decision-makers, appeal decision-makers, and sanctioning decision-makers who may perform any or all of these roles (though not at the same time or with respect to the same case).~~
- ~~Hearing Decision-maker refers to those who have decision-making authority within Hearings as part of the Grievance Process.~~
- ~~Investigator means the person or persons charged by Southeast TechSTC with gathering facts about an alleged violation of this Policy, assessing relevance and credibility, synthesizing the evidence, and compiling this information into an investigation report and file of directly related evidence as part of the Grievance process.~~
- ~~Mandated Reporter means an employee of Southeast TechSTC who is obligated by policy to share knowledge, Notice, and/or reports of harassment and/or retaliation with the Title IX Coordinator. The mere ability or obligation to report sexual harassment or to inform a student about how to report sexual harassment, or having been trained to do so, does not qualify an individual as an Official with Authority.~~
- ~~Notice (actual knowledge) means that an employee, student, or third-party informs the Title IX Coordinator or other Official with Authority of sexual harassment or allegations of sexual harassment and/or retaliatory conduct. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. This standard is not met when the only official of Southeast TechSTC with actual knowledge is the Respondent.~~
- ~~Official with Authority (OWA) means an employee of Southeast TechSTC explicitly vested with the authority to implement corrective measures for sexual harassment and/or retaliation on behalf of Southeast TechSTC.~~
- ~~Parties include the Complainant(s) and Respondent(s), collectively.~~
- ~~Preponderance of Evidence means more likely to have occurred than not. Under the preponderance standard, the burden of proof is met when there is a greater than 50% chance that something occurred.~~
- ~~Process A means the Formal Grievance Process used with this policy. ● Process B means any process designated by Southeast TechSTC to apply only when Process A does not, as determined by the Title IX Coordinator.~~
- ~~Remedies are post-finding actions, where a determination of responsibility of sexual harassment has been made against the Respondent in accordance with the process set forth herein, directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and to restore or preserve equal access to Southeast TechSTC educational program or activity. Such remedies may include supportive measures; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the Respondent.~~
- ~~Respondent means an employee, student, or organization that has been reported to be the perpetrator of conduct that could constitute sexual harassment or retaliation.~~
- ~~Resolution means the result of an informal or Formal Grievance Process.~~

● Sanction means a consequence imposed by **Southeast Tech** STC on a Respondent who is found to have violated this policy.

● Sexual Harassment means conduct on the basis of sex that satisfies one or more of the following: ○ An employee of **Southeast Tech** STC conditioning the provision of an aid, benefit, or service of **Southeast Tech** STC on the individual's participation in unwelcome sexual conduct (i.e. quid pro quo); or ○ Unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to **Southeast Tech's** STC's education program or activity; or ○ Sexual assault as defined in 20 U.S.C. 1092(f)(6)(A)(v); or ○ Dating violence as defined in 34 U.S.C. 12291(a)(10); or ○ Domestic violence as defined in 34 U.S.C. 12291(a)(8); or ○ Stalking as defined in 34 U.S.C. 12291(a)(30). See Section 16 for greater detail.

● Supportive measures means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Such measures are designed to restore or preserve equal access to **Southeast Tech's** STC's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or **Southeast Tech's** STC's educational environment or deter sexual harassment.

● Title IX Coordinator is at least one official designated by **Southeast Tech** STC to ensure compliance with Title IX and **Southeast Tech's** STC's Title IX program. References to the Coordinator throughout this policy may also encompass a designee of the Coordinator for specific tasks.

● Title IX Team refers to the Title IX Coordinator, any deputy coordinators, and any member of the Grievance Process Pool.

### **Definitions of Sexual Harassment Including Force, Coercing, Consent, and Incapacitation**

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the State of South Dakota regard sexual harassment as an unlawful discriminatory practice.

Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved.

**Southeast Tech** STC has adopted the following definition of sexual harassment in order to address the unique environment of an academic community.

**Sexual Harassment**, as an umbrella category, includes the actual or attempted offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking, and is defined as:

Conduct on the basis of sex or that is sexual that satisfies one or more of the following:

1. Quid Pro Quo:

- a. an employee of the recipient,
- b. conditions (implicitly or explicitly) the provision of an aid, benefit, or service of the recipient,
- c. on an individual's participation in unwelcome sexual conduct.

Quid Pro Quo Harassment is:

- Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature
- By a person having power or authority over another constitutes sexual harassment when:
  - Submission to such sexual conduct is made either explicitly or implicitly a term or condition of rating or evaluating an individual's educational or employment progress, development or performance.
  - This includes when submission to such conduct would be a condition for access to receiving the benefits of any educational or employment program.

2. Sexual Harassment:

- a. unwelcome conduct,
- b. determined by a reasonable person,
- c. to be so severe, and
- d. pervasive, and,
- e. objectively offensive,
- f. that it effectively denies a person equal access to Southeast Tech's STC's education program or activity

Sexual Harassment is:

- unwelcome,
- sexual, sex-based and/or gender-based verbal, written, online and/or physical conduct.

Sexual harassment may be disciplined when it takes the form of quid pro quo harassment, retaliatory harassment and/or creates a hostile environment.

A hostile environment is created when sexual harassment is:

- sufficiently severe, or
- persistent or pervasive, and
- objectively offensive that it:
  - Unreasonably interferes with, denies or limits someone's ability to participate in or benefit from Southeast Tech's STC's educational and/or employment, social and/or residential program.

Examples of possible Sexual Harassment can be found in Appendix B.

3. Sexual Assault, defined as:

a. Sex Offenses, Forcible:

- i. Any sexual act directed against another person,
- ii. without the consent of the Complainant,
- iii. including instances in which the Complainant is incapable of giving consent.

Sexual acts include:

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 Complainant.

**Forcible Sodomy:**

- Oral or anal sexual intercourse with another person,
- Forcibly
- and/or against that person's will (non-consensually), or
- not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

**Sexual Assault with an Object:**

- The use of an object or instrument to penetrate,
- however slightly,
- the genital or anal opening of the body of another person,
- forcibly,
- and/or against that person's will (non-consensually),
- or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

**Forcible Fondling:**

- The touching of the private body parts of another person (buttocks, groin, breasts),
- for the purpose of sexual gratification,
- forcibly,
- and/or against that person's will (non-consensually),
- or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

**b. Sex Offenses, Non-forcible:**

**i. Incest:**

1. Non-forcible sexual intercourse,
2. between persons who are related to each other,
3. within the degrees wherein marriage is prohibited by South Dakota law.

**• Statutory Rape:**

1. Non-forcible sexual intercourse,
2. With a person who is under the statutory age of consent of South Dakota.

**NON-CONSENSUAL SEXUAL CONTACT**

**Non-Consensual Sexual Contact is:**

- Any intentional sexual touching,

- ~~However, slight,~~
- ~~With any object,~~
- ~~By a person upon another person,~~
- ~~That is without consent and/or by force~~

~~Sexual Contact includes:~~

- ~~Intentional contact with the breasts, buttock, groin, or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; or~~
- ~~Any other intentional bodily contact in a sexual manner.~~

#### ~~NON-CONSENSUAL SEXUAL INTERCOURSE~~

~~Non-Consensual Sexual Intercourse is:~~

- ~~Any sexual intercourse~~
- ~~However slight,~~
- ~~With any object,~~
- ~~By a person upon another person,~~
- ~~That is without consent and/or by force.~~

~~Intercourse includes:~~

- ~~vaginal or anal penetration by a penis, object, tongue or finger, and oral copulation (mouth to genital contact), no matter how slight the penetration or contact.~~

#### ~~SEXUAL EXPLOITATION~~

~~Sexual exploitation occurs when one person takes non-consensual or abusive sexual advantage of another for his/her own advantage, or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of the other sexual misconduct offenses.~~

~~For examples of sexual exploitation, see Appendix C.~~

#### ~~ADDITIONAL APPLICABLE DEFINITIONS~~

~~Consent:~~

- ~~Consent is:~~
  - ~~Clear, and~~
  - ~~Knowing, and~~
  - ~~Affirmative, conscious and voluntary~~
  - ~~Words or actions,~~
  - ~~That give permission for specific sexual activity.~~
- ~~Consent is active, not passive~~
- ~~Silence, in and of itself, cannot be interpreted as consent.~~
- ~~Consent can be given by words or actions, as long as those words or actions create mutually understandable permission regarding willingness to engage in (and the conditions of) sexual activity.~~
- ~~Previous relationships or prior consent cannot imply consent to future sexual acts.~~
- ~~Consent can be withdrawn once given, as long as that withdrawal is clearly communicated.~~
- ~~In order to give consent, one must be of legal age.~~

- Sexual activity with someone you know to be or should know to be incapacitated constitutes a violation of this policy.
  - Incapacitation can occur mentally or physically, from developmental disability, by alcohol or other drug use, or blackout.
  - The question of what the responding party should have known is objectively based on what a reasonable person in the place of the responding party, sober and exercising good judgment, would have known about the condition of the reporting party.
  - Incapacitation is a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent (e.g., to understand the “who, what, when, where, why or how” of their sexual interaction).
  - This policy also covers a person whose incapacity results from mental disability, sleep, unconsciousness, involuntary physical restraint, or from the taking of rape drugs. (Possession, use and/or distribution of any of these substances, including Rohypnol, Ketamine, GHB, Burundanga, etc. is prohibited, and administering one of these drugs to another person is a violation of this policy. More information on these drugs can be found at <http://www.911rape.org/>).

4. Dating Violence, defined as:

- a. Violence,
- b. On the basis of sex,
- c. Committed by a person,
- d. Who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.
  - i. The existence of such a relationship shall be determined based on the Complainant’s statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition—
  - ii. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
  - iii. Dating violence does not include acts covered under the definition of domestic violence.

5. Domestic Violence, defined as:

- a. violence,
- b. on the basis of sex,
- c. committed by a current or former spouse or intimate partner of the Complainant,
- d. by a person with whom the Complainant shares a child in common, or
- e. by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or
- f. by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of South Dakota, or
- g. by any other person against an adult or youth Complainant who is protected from that person’s acts under the domestic or family violence laws of South Dakota.

\*To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

6. ~~Stalking, defined as:~~

- ~~a. engaging in a course of conduct,~~
- ~~b. on the basis of sex~~
- ~~c. directed at a specific person, that~~
  - ~~i. — Would cause a reasonable person to fear for the person’s safety, or~~
  - ~~ii. — The safety of others; or~~
  - ~~iii. — Suffer substantial emotional distress.~~

~~For the purposes of this definition—~~

- ~~(i) — Course of conduct means two or more acts, including, but not limited to, acts in which the Respondent 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.~~
- ~~(ii) — Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.~~
- ~~(iii) — Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.~~

~~Stalking 1:~~

- ~~i. A course of conduct~~
- ~~ii. Directed at a specific person~~
- ~~iii. On the basis of actual or perceived membership in a protected class~~
- ~~iv. That is unwelcome, AND~~
- ~~v. Would cause a reasonable person to fear~~

~~Stalking 2:~~

- ~~i. Repetitive and Menacing~~
- ~~ii. Pursuit, following, harassing and or interfering with the peace and/or safety of another~~

~~Examples of Stalking — See Appendix E~~

~~Any other Southeast TechSTC policy may fall within this section when a violation is motivated by the actual or perceived membership of the reporting party’s sex or gender.~~

~~Southeast TechSTC reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or expulsion/termination, for any offense under this policy.~~

~~**Force, Coercion, Consent, and Incapacitation**~~

~~As used in the offenses above, the following definitions and understandings apply:~~

~~**Force:** Force is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g., “Have sex with me or I’ll hit you,” “Okay, don’t hit me, I’ll do what you want.”).~~

Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

Use of alcohol or other drugs will never function to excuse any behavior that violates this policy.

This policy is applicable regardless of the sexual orientation and/or gender identity of the individuals engaging in sexual activity.

For reference to the pertinent state statutes on sex offenses, please see

[http://legis.sd.gov/Statutes/Codified\\_Laws/DisplayStatute.aspx?Type=Statute&Statute=22-22](http://legis.sd.gov/Statutes/Codified_Laws/DisplayStatute.aspx?Type=Statute&Statute=22-22)

[https://sdlegislature.gov/Statutes/Codified\\_Laws/2047349](https://sdlegislature.gov/Statutes/Codified_Laws/2047349)

For examples of Non-Consensual Sexual Contact and Non-Consensual Sexual Intercourse, please see Appendix D.

**Coercion:** Coercion is unreasonable pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

**Consent is:**

- Knowing, and
- Voluntary, and
- Clear permission
- By word or action
- To engage in sexual activity.

Individuals may experience the same interaction in different ways. Therefore, it is the responsibility of each party to determine that the other has consented before engaging in the activity.

If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged.

For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Reasonable reciprocation can be implied. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain their consent to being kissed back.

Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, that sexual activity should cease within a reasonable time.

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent.

Proof of consent or non-consent is not a burden placed on either party involved in an incident. Instead, the burden remains on ~~SouthEast Tech~~STC to determine whether its policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

Consent in relationships must also be considered in context. When parties consent to BDSM (bondage, discipline/dominance, submission/sadism, and masochism) or other forms of kink, non-consent may be shown by the use of a safe word. Resistance, force, violence, or even saying "no" may be part of the kink and thus consensual, so ~~SouthEast Tech's~~STC's evaluation of communication in kink situations should be guided by reasonableness, rather than strict adherence to policy that assumes non-kink relationships as a default.

NOTE: There is no requirement for a party to resist the sexual advance or request, but resistance is a clear demonstration of non-consent. The presence of force is not demonstrated by the absence of resistance. Sexual activity that is forced is by definition non-consensual, but non-consensual sexual activity is not by definition forced.

**Incapacitation:** A person cannot consent if they are unable to understand what is happening or is disoriented, helpless, asleep, or unconscious, for any reason, including by alcohol or other drugs. As stated above, a Respondent violates this policy if they engage in sexual activity with someone who is incapable of giving consent.

It is a defense to a sexual assault policy violation that the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated. "Should have known" is an objective, reasonable person standard that assumes that a reasonable person is both sober and exercising sound judgment.

Incapacitation occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the "who, what, when, where, why, or how" of their sexual interaction).

Incapacitation is determined through consideration of all relevant indicators of an individual's state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.

This policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating drugs.

**Retaliation** is defined as any adverse action taken against a person participating in a protected activity because of their participation in that protected activity (subject to limitations imposed by the 1st Amendment and/or Academic Freedom). Retaliation against an individual for an allegation, for supporting a reporting party or for assisting in providing information relevant to an allegation is a serious violation of ~~SouthEast Tech~~STC policy.

### Other misconduct offenses (will fall under Title IX when sex or gender based)

1. Threatening or causing physical harm, extreme verbal abuse, or other conduct which threatens or endangers the health or safety of any person;
2. Discrimination, defined as actions that deprive other members of the community of educational or employment access, benefits, or opportunities on the basis of sex or gender;
3. Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another;
4. Hazing, defined as an act against a student or coercing a student into committing an act that creates a risk of harm to a person, in order for the student to be initiated into or affiliated with a student organization (school, group, club, team, activity, event, etc.) or for any other purpose (as defined further in the Hazing Policy — JICFA/STI JICFA R/STI).
5. Bullying, defined as:
  - a. Repeated and/or severe
  - b. Aggressive behavior
  - c. Likely to intimidate or intentionally hurt, control or diminish another person, physically or mentally
  - d. That is not speech or conduct otherwise protected by the 1<sup>st</sup> Amendment.
6. Intimate Partner Violence, defined as physical harm, bodily injury, or attempts to cause physical harm or bodily injury, the infliction of fear of imminent physical harm or bodily injury, or a pattern of abusive behaviors between one or more partners in an intimate relationship.
  - a. A boyfriend shoves his girlfriend into a wall upon seeing her talking to a male friend. This physical assault based in jealousy is a violation of the Intimate Partner Violence definition.
  - b. An ex-girlfriend shames her female partner, threatening to out her as a lesbian if she doesn't give the ex another chance. Psychological abuse is a form of Intimate Partner Violence.
  - c. A student refuses to wear a condom and forces his girlfriend to take a hormonal birth control though it makes her ill, in order to prevent pregnancy.
  - d. Married employees are witnessed in the parking lot, with one partner slapping and scratching the other in the midst of an argument.

### 4. Reporting Procedures

Anyone experiencing sexual harassment at Southeast Technical College is encouraged to report it immediately to the Title IX Coordinator or an administrator. Remedies, education and or/training will be provided in response.

Sexual harassment may be disciplined when it takes the form of quid pro quo harassment, retaliatory harassment and/or creates a hostile environment.

### Title IX Coordinator

Sioux Falls School District Title IX Coordinator Brett Arenz also serves as the Southeast TechSTC Title IX Coordinator and oversees implementation of this policy. The Title IX Coordinator has the primary

responsibility for coordinating ~~Southwest Tech's~~ ~~STC's~~ efforts related to the intake, implementation of supportive measures, and the Grievance Process. The Title IX Coordinator also has the primary responsibility for the design and implementation of remedies to stop, remediate, and prevent sexual harassment and retaliation prohibited under this policy.

Reports of alleged sex discrimination or sexual harassment and inquiries or concerns regarding this policy, may be made internally to:

Brett Arenz, Title IX Coordinator  
201 E. 38th Street  
Sioux Falls, SD 57105 605 367 4670  
Brett.Arenz@k12.sd.us

~~Southwest Technical College's~~ Title IX Coordinator oversees compliance with all aspects of the sex/gender harassment, discrimination and misconduct policy. Questions about this policy should be directed to the Title IX Coordinator. Anyone wishing to make a report relating to discrimination or harassment may do so by reporting the concern to the Title IX Coordinator.

Name: Tracy Noldner

Title: Executive Director of Student Affairs & Institutional Effectiveness/Title IX

Phone: (605) 367 7487

Email: [Tracy.Noldner@southwesttech.edu](mailto:Tracy.Noldner@southwesttech.edu)

Individuals experiencing harassment or discrimination always have the right to file a formal grievance with government authorities:

Office for Civil Rights (OCR)  
Kansas City Office  
U.S. Department of Education  
One Petticoat Lane  
1010 Walnut Street, Suite 320  
Kansas City, MO 64106  
Telephone: (816) 268 0550  
Fax: (816) 268 0559  
Email: [OCR.KansasCity@ed.gov](mailto:OCR.KansasCity@ed.gov)  
Web: <http://www.ed.gov/ocr>

U.S. Department of Justice Civil Rights Division  
950 Pennsylvania Avenue, N.W.  
Educational Opportunities Section, PHB  
Washington, D.C. 20530  
By e-mail to: [education@usdoj.gov](mailto:education@usdoj.gov)  
By telephone at (202) 514 4092 or 1 877 292 3804 (toll free)

In the event that an incident involves alleged misconduct by the Title IX Coordinator, reports should be made directly to the President of [Southeast TechSTC](#).

### Independence and Conflict of Interest

The Title IX Coordinator acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this policy and these procedures.

The members of the Title IX Team are vetted and trained to ensure they are not biased for or against any party in a specific case, or for or against Complainants and/or Respondents, generally. To raise any concern involving bias or conflict of interest by the Title IX Coordinator, contact the [Southeast TechSTC](#) President. Concerns of bias or a potential conflict of interest by a member of the Grievance Process Pool should be raised with the Title IX Coordinator.

Reports of misconduct committed by the Title IX Coordinator should be reported to the [Southeast Technical College](#) President or designee. Reports of misconduct committed by a member of the Grievance Process Pool should be reported to the Title IX Coordinator.

### Notice and Formal Complaints of Sexual Harassment and/or Retaliation

**Notice**—Any person may report (give Notice of) sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the [Southeast Technical College](#) Title IX Coordinator, or by any other means that results in the [Southeast TechSTC](#) Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at any time (including during nonbusiness hours) by using the telephone number, electronic mail address, or by mail to the office address listed for the [Southeast Technical College](#) Title IX Coordinator in section 6. Reports may also be made to an Official of Authority. Upon Notice, [Southeast TechSTC](#)'s Title IX Coordinator will immediately contact the Complainant, if identified, to offer supportive measures and explain the process to file a Formal Complaint.

Anonymous reports are accepted but can give rise to a need to investigate. [Southeast TechSTC](#) tries to provide supportive measures to all Complainants, which may be impossible with an anonymous report. Because reporting carries no obligation to initiate a formal response, and as [Southeast TechSTC](#) respects Complainant requests to dismiss Formal Complaints unless there is a compelling threat to health and/or safety, the Complainant is largely in control and should not fear a loss of privacy by making a report that allows [Southeast TechSTC](#) to discuss and/or provide supportive measures.

**Formal Complaint**—A Complainant may file a Formal complaint with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information for the Title IX Coordinator in section 4. A Formal Complaint must contain the Complainant's physical or digital signature and request that [Southeast TechSTC](#) investigate the allegations. If a Formal Complaint is submitted in a form that does

not meet this standard, the Title IX Coordinator will contact the Complainant to ensure that it is filed correctly. Formal Complaints may also be filed with an Official with Authority (see section 18).

The Title IX Coordinator may sign a Formal Complaint when it is deemed necessary for the safety and security of the campus. Where the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a complainant or otherwise a party.

### **Formal Reporting Options**

All Southeast Technical College employees have a duty to report, unless they fall under the “Confidential Reporting” section above. Reporting parties may want to consider carefully whether they share personally identifiable details with non-confidential employees, as those details must be shared by the employee with the Title IX Coordinator. Employees must share all details of the reports they receive. Generally, climate surveys, classroom writing assignments, human subjects research, or events such as Take Back the Night marches or speak outs do not require reporting to the Title IX Coordinator by employees; however, remedial actions may result without formal institutional action.

If a victim does not wish for his/her name to be shared, does not wish for an investigation to take place, or does not want formal resolution to be pursued, the victim may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and comply with federal law. In cases indicating pattern, predation, threat, weapons and/or violence, Southeast TechSTC will likely be unable to honor a request for confidentiality. In cases where the victim requests confidentiality and the circumstances allow the Institute to honor that request, the Institute will offer interim supports and remedies to the victim and the community, but will not otherwise pursue formal action. A reporting party has the right, and can expect, to have reports taken seriously by the Institute when formally reported, and to have those incidents investigated and properly resolved through these procedures.

Formal reporting still affords privacy to the reporter, and only a small group of officials who need to know will be told. Information will be shared as necessary with investigators, witnesses and the responding party. The circle of people with this knowledge will be kept as tight as possible to preserve a reporting party’s rights and privacy.

Reports to the Title IX Coordinator can be made via e-mail, phone or in person at the contact information below:

Tracy Noldner ([Tracy.Noldner@southeasttech.edu](mailto:Tracy.Noldner@southeasttech.edu))

Executive Director of Student Affairs & Institutional Effectiveness/Title IX Coordinator (605) 367-7487

Failure of a non-confidential employee, as described in this section, to report an incident or incidents of sex or gender harassment or discrimination of which they become aware, is a violation of Southeast Technical College policy and can be subject to disciplinary action for failure to comply with institute policies.

Additional Policy Provisions

a. ~~Attempted Violations~~

In most circumstances, ~~SouthEast TechSTC~~ will treat attempts to commit any of the violations listed in the Gender Misconduct definition as if those attempts had been completed.

b. ~~False Reports~~

~~SouthEast Technical College~~ will not tolerate intentional false reporting of incidents. It is a violation of the Student Code of Conduct to make an intentionally false report of any policy violation, and it may also violate state criminal statutes and civil defamation laws.

c. ~~Amnesty for Victims and Witnesses~~

The ~~SouthEast Technical College~~ community encourages the reporting of misconduct and crimes by victims and witnesses. Sometimes, victims and witnesses are hesitant to report to ~~SouthEast TechSTC~~ officials or participate in resolution processes because they fear that they themselves may be accused of policy violations, such as underage drinking at the time of the incident. It is in the best interests of this community that as many victims as possible choose to report to institute officials, and that witnesses come forward to share what they know. To encourage reporting, ~~SouthEast TechSTC~~ pursues a policy of offering victims of misconduct and witnesses amnesty from minor policy violations related to the incident.

Sometimes, students are hesitant to offer assistance to others for fear that they may get themselves in trouble (for example, a student who has been drinking underage might hesitate to help take a sexual misconduct victim to the Campus Security). ~~SouthEast TechSTC~~ pursues a policy of amnesty for students who offer help to others in need.

d. ~~Parental Notification~~

~~SouthEast TechSTC~~ reserves the right to notify parents/guardians of students regarding any health or safety risk, change in student status or conduct situation, particularly alcohol and other drug violations. ~~SouthEast TechSTC~~ also reserves the right to designate which institute officials have a need to know about individual conduct reports pursuant to the Family Educational Rights and Privacy Act.

### Supportive Measures

Upon Notice of alleged sexual harassment, ~~SouthEast TechSTC~~'s Title IX Coordinator will promptly contact the Complainant to offer and implement appropriate and reasonable supportive measures. The Title IX Coordinator will work with the Complainant to ensure that their wishes are taken into account with respect to the supportive measures that are planned and implemented and inform the Complainant that supportive measures available with or without filing a Formal Complaint. At the time that supportive measures are offered, ~~SouthEast TechSTC~~ will inform the Complainant, in writing, of the process to file a Formal Complaint with ~~SouthEast TechSTC~~ either at that time or in the future, if they have not done so already. If a Complainant refuses supportive measures, the Title IX Coordinator will document the refusal.

Supportive measures may be offered to a Respondent upon the filing of a Formal Complaint.

All supportive measures offered and implemented will be documented. Southeast TechSTC will maintain the privacy of the supportive measures, provided that privacy does not impair Southeast TechSTC's ability to provide the supportive measures. Southeast Technical College will act to ensure as minimal an academic impact on the parties as possible. Southeast TechSTC will implement supportive measures in a way that does not unreasonably burden the other party.

These actions may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
- Referral to the Employee Assistance Program
- Referral to community-based service providers
- Visa and immigration assistance
- Student financial aid counseling
- Education to the institutional community or community subgroup(s)
- Altering campus housing assignment(s)
- Altering work arrangements for employees or student employees
- Safety planning
- Providing campus safety escorts
- Implementing contact limitations (no contact orders) between the parties
- Academic support, extensions of deadlines, or other course/program-related Adjustments
- No contact orders
- Timely Warnings
- Class schedule modifications
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title IX Coordinator

Violations of no contact orders will be referred to appropriate student or employee conduct processes for enforcement.

### **Emergency Removal**

Nothing contained in this policy shall preclude Southeast TechSTC from removing a student Respondent entirely or partially from Southeast TechSTC's education programs or activities on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal. Policy STC 914.1 describes the Emergency Removal process. A Formal Complaint and Grievance process do not need to be in place for an Emergency Removal to occur.

Where the Respondent is a non-student employee, the employee may be placed on administrative leave (with or without pay) while a Grievance Process is pending, without needing to meet the emergency removal standards.

### **Promptness**

All allegations are acted upon promptly by Southeast TechSTC once it has received Notice or a Formal Complaint. Formal Complaints can take 60-90 business days to resolve, typically. There are always

exceptions and extenuating circumstances that can cause a resolution to take longer, but Southeast TechSTC will avoid all undue delays within its control.

Any time the general timeframes for resolution outlined in Southeast TechSTC procedures will be delayed, Southeast TechSTC will provide written notice to the parties of the delay, the cause of the delay, and an estimate of the anticipated additional time that will be needed as a result of the delay.

### Privacy

Every effort is made by Southeast TechSTC to preserve the privacy of reports. Southeast TechSTC will not share the identity of any individual who has made a report (given Notice) of sexual harassment or retaliation; any Complainant, any individual who has been reported to be the perpetrator of sexual harassment or retaliation, any Respondent, or any witness, except as permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g; FERPA regulations, 34 CFR part 99; or as required by law; or to carry out the purposes of 34 CFR Part 106, including the conducting of any investigation, hearing, or grievance proceeding arising under these policies and procedures.

For the purpose of this policy, privacy and confidentiality have distinct meanings.

- Privacy means that information related to a Notice, a Formal Complaint, supportive measures, and the Grievance Process will be shared with a limited number of Southeast TechSTC employees and the Title IX Team who “need to know” in order to assist in the assessment, investigation, and resolution of the report. All employees and Title IX Team members who are involved in Southeast TechSTC’s response to Notice under this policy receive specific training and guidance about sharing and safeguarding private information in accordance with state and federal law. The privacy of student education records will be protected in accordance with the Family Education Rights and Privacy Act (“FERPA”), as outlined in Southeast TechSTC’s FERPA policy. The privacy of employee records will be protected in accordance with Human Resources policies.
- Confidentiality exists in the context of laws that protect certain relationships, including those who provide services related to medical and clinical care, mental health providers, counselors, and ordained clergy. The law creates a privilege between certain health care providers, mental health care providers, attorneys, clergy, and others, with their patients, clients, and parishioners

Southeast Technical College reserves the right to determine which Southeast TechSTC officials have a legitimate educational interest in being informed about incidents that fall within this policy, pursuant to the Family Educational Rights and Privacy Act (FERPA). Information will be shared as necessary with Investigators, Decision makers, witnesses, and the parties. The circle of people with this knowledge will be kept as tight as possible to preserve the parties’ rights and privacy.

Southeast TechSTC may contact parents/guardians to inform them of situations in which there is a significant and articulable health and/or safety risk but will usually consult with the student first before doing so.

### Jurisdiction of Southeast Technical College

This policy applies to locations, events, or circumstances within the United States where Southeast TechSTC exercises substantial control over both the Respondent and the context in which the sexual harassment occurs and also includes any building owned or controlled by a student organization that is officially recognized by Southeast TechSTC.

If the Respondent is unknown or is not a member of the Southeast TechSTC community, the Title IX Coordinator will assist the Complainant with supportive measures and, when criminal conduct is alleged, in contacting local or campus law enforcement if the individual would like to file a police report.

All vendors serving Southeast TechSTC through third-party contracts are subject to the policies and procedures of their employers or to these policies and procedures to which their employer has agreed to be bound by their contracts.

### Time Limits on Reporting

There is no time limitation on providing Notice/Formal Complaints to the Title IX Coordinator. However, if the Respondent is no longer subject to Southeast TechSTC's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible.

Acting on Notice/Formal Complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of policy) is at the discretion of the Title IX Coordinator, who may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

When Notice/Formal Complaint is affected by significant time delay, Southeast TechSTC will typically apply the policy in place at the time of the alleged misconduct and the procedures in place at the time of Notice/Formal Complaint.

### Online Sexual Harassment and/or Retaliation

The policies of Southeast Technical College are written and interpreted broadly to include online harassment when the harassment occurs in or has an effect on Southeast TechSTC's education program or activities, or use of Southeast TechSTC networks, websites, email, technology, or equipment.

Any online posting or other electronic communication occurring completely outside of Southeast TechSTC's control (e.g., not occurring in an education program or activity or not on Southeast TechSTC networks, websites, technology, equipment, or using Southeast TechSTC email accounts) will only be subject to this policy when such online conduct can be shown to cause a substantial disruption to Southeast TechSTC's education program or activity.

Although Southeast Technical College may not control websites, social media, and other venues in which harassing communications are made, when such communications are reported to Southeast TechSTC, it will engage in a variety of means to address and mitigate the effects, and supportive measures will be offered to the Complainant.

### Policy on Nondiscrimination

Southeast TechSTC will respond promptly to allegations of sexual harassment in a manner that is not deliberately indifferent. Southeast TechSTC will treat Complainants and Respondents equitably by offering supportive measures to every Complainant and following the Grievance Process before

imposition of any disciplinary sanctions or other actions that are not supportive measures, against a Respondent. Southeast TechSTC will pursue every Formal Complaint filed by a Complainant or signed by a Title IX Coordinator using the Grievance Process, and effectively implement remedies designed to restore or preserve a Complainant's equal educational access any time a Respondent is found responsible for sexual harassment.

In an effort to provide a safe, respectful educational environment, Southeast TechSTC prohibits discrimination in its policies, employment practices, programs and activities on the basis of race, color, creed, religion, age, gender (including pregnancy), sexual orientation, disability, national origin or ancestry, military/veteran status, genetic information or any other category protected by law. Southeast Technical College prohibits acts of discrimination toward any individual(s) while on Southeast TechSTC property or at Southeast TechSTC sponsored activities. Southeast Technical College prohibits discrimination against students on the basis of parental status, marital status, or pregnancy. Students will not be excluded from any program or activity, including any class based on the above. Prohibited acts of discrimination include racial, sexual, ethnic or other types of slurs, insults, intimidation, harassment and other such conduct directed toward another person.

### Retaliation

Protected activity under this policy includes reporting an incident that may implicate this policy, participating in the grievance process, supporting a Complainant or Respondent, assisting in providing information relevant to an investigation, and/or acting in good faith to oppose conduct that constitutes a violation of this Policy.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. Southeast TechSTC will take all appropriate and available steps to protect individuals who fear that they may be subjected to retaliation.

Southeast TechSTC and any member of the Southeast Tech's STC community are prohibited from taking materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy.

Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or Formal Complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX or this policy, constitutes retaliation.

Filing a Formal Complaint within Process B could be considered retaliatory if those charges could be applicable under Process A, when the Process B charges are made for the purpose of interfering with or circumventing any right or privilege provided afforded within Process A that is not provided by Process B. Therefore, Southeast TechSTC vets all Formal Complaints carefully to ensure this does not happen, and to assure that Formal Complaints are tracked to the appropriate process.

The exercise of rights protected under the First Amendment does not constitute retaliation.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this policy and procedure does not constitute retaliation, provided that a determination regarding responsibility, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith.

Complaints alleging retaliation may be filed according to the grievance procedures for sex discrimination under Process B if Process A is not applicable.

## **Confidentiality, Privacy and Reporting**

### **Confidentiality and Reporting of Offenses Under This Policy**

All Southeast Technical College employees (faculty, staff, and administrators) are expected to immediately report actual or suspected discrimination or harassment to appropriate officials, though there are some limited exceptions. In order to make informed choices, it is important to be aware of confidentiality and mandatory reporting requirements when consulting campus resources. On campus, some resources may maintain confidentiality—meaning they are not required to report actual or suspected discrimination or harassment to appropriate Institute officials—thereby offering options and advice without any obligation to inform an outside agency or individual unless a victim has requested information to be shared. Other resources exist for a victim to report crimes and policy violations and these resources will take action when an incident is reported to them. The following describes the two reporting options at Southeast TechSTC:

#### **Confidential Reporting**

If a reporting party would like the details of an incident to be kept confidential, the reporting party may speak with on-campus licensed professional counselors.

The following are off-campus resources for confidential reporting:

- Licensed professional counselors
- Local rape crisis counselors
- Domestic violence resources
- Local or state assistance agencies
- Clergy/Chaplains

All of the above individuals/agencies will maintain confidentiality except in extreme cases of immediate threat or danger, or abuse of a minor. Campus counselors are available to help free of charge and can be seen on an emergency basis during normal business hours. These employees will submit timely, anonymous, aggregate statistical information for Clery Act purposes unless they believe it would be harmful to a specific client, patient or parishioner.

#### **Investigation and Appeal**

For investigation and appeal information, the applicable Southeast TechSTC Policy will be followed: STC 105 Nondiscrimination/Equal Opportunity; STC 910 & 910.1 Harassment (Student); STC 706 & 706.1 Harassment (Personnel)

For commonly asked questions regarding [Southeast TechSTC's](#) sexual misconduct policy and procedures, please see Appendix F.

### **Reporting Options and Mandated Reporting**

In order to make informed choices, it is important to be aware of confidentiality and mandatory reporting requirements when consulting campus resources:

#### **a. Title IX Coordinator**

Any person may report (give Notice of) sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the [Southeast TechSTC](#) Title IX Coordinator in section 4 of this policy. Such a report may be made at any time (including during non-business hours) by using the telephone number, electronic mail address, or by mail to the office address listed for the [Southeast TechSTC](#) Title IX Coordinator.

#### **b. Official with Authority (OWA)**

Any person may report (give Notice of) sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail to an OWA to include the following:

- [Southeast Technical College President](#)
- [VP of Academics](#)
- [VP of Enrollment Management](#)
- [VP of Finance and Operations](#)
- [Director of Human Resources](#)

#### **c. Confidential Resources**

If a Complainant would like the details of an incident to be kept confidential and the incident not to be reported to the Title IX Coordinator or to an OWA to trigger action under this policy, the Complainant may do the following:

- Speak directly with one of [Southeast TechSTC's](#) licensed professional personal counselors
- Request to speak to a licensed professional personal counselor through the student's Success Advisor without revealing the alleged sexual harassment. If the student informs the Success Advisor of the alleged sexual harassment, the Success Advisor will be obligated to inform the Title IX Coordinator.

- Non-student employees may utilize the [Southeast TechSTC](#) Employee Assistance Plan.
- Utilize community resources such as those on the Title IX page of the [Southeast TechSTC](#) website, which may include:
  - Licensed professional counselors and other medical providers
  - Local rape crisis counselors
  - Domestic violence resources
  - Local or state assistance agencies
  - Clergy/Chaplains
  - Attorneys

All of the above-listed individuals will maintain confidentiality when acting under the scope of their licensure, professional ethics, and/or professional credentials, except in extreme cases of immediacy of threat or danger or abuse of a minor/elder/individual with a disability, or when required to disclose by law or court order.

#### **d. Mandated Reporters and Formal Notice/Complaints**

Mandated Reporters are [Southeast Technical College](#) employees who are expected to report actual or suspected sexual harassment to the Title IX Coordinator or to an OWA immediately upon knowledge. Mandated Reporters must promptly share all details of behaviors under this policy that they observe or have knowledge of, even if not reported to them by a Complainant or third party.

The following are designated by [Southeast TechSTC](#) as Mandated Reporters:

- Supervisors of [Southeast TechSTC](#) employees
- Faculty
- Student Success Advisors
- Library, Disability Services, Tutoring Coordinator
- [Southeast TechSTC](#) Student Organization and Club Advisors

Generally, disclosures in climate surveys, classroom writing assignments or discussions, human subjects research, or at events such as “Take Back the Night” marches or speak-outs do not provide Notice that must be reported to the Title IX Coordinator or an OWA by Mandatory Reporters, unless the Complainant clearly indicates that they desire a report to be made or a seek a specific response from [Southeast TechSTC](#).

Failure of a Mandated Reporter, as described above in this section, to report an incident of sexual harassment or retaliation of which they become aware is a violation of [Southeast TechSTC](#) policy and can be subject to disciplinary action for failure to comply. If a Mandatory Reporter fails to report an incident of sexual harassment of which they become aware of to the Title IX Coordinator or an OWA, [Southeast TechSTC](#) is not on Notice.

Though this may seem obvious, when a Mandated Reporter is engaged in harassment or other violations of this policy, they still have a duty to report their own misconduct, though [Southeast](#)

TechSTC is technically not on Notice when a harasser is also a Mandated Reporter unless the harasser does in fact report themselves.

Finally, it is important to clarify that a Mandated Reporter who is themselves a target of harassment or other misconduct under this policy is not required to report their own experience, though they are, of course, encouraged to do so.

### When a Complainant Does Not Wish to Proceed

If a Complainant does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a Formal Complaint to be pursued, they may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and to comply with state or federal law.

The Title IX Coordinator has ultimate discretion over whether Southeast TechSTC proceeds when the Complainant does not wish to do so, and the Title IX Coordinator may sign a Formal Complaint to initiate a grievance process. The Title IX Coordinator's decision should be based on a compelling risk to health and/or safety that requires Southeast TechSTC to pursue formal action to protect the community. A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence. Southeast TechSTC may also be compelled to act on alleged employee misconduct irrespective of a Complainant's wishes.

The Title IX Coordinator must also consider the effect that non-participation by the Complainant may have on the availability of evidence and Southeast TechSTC's ability to pursue a Formal Grievance Process fairly and effectively.

When the Title IX Coordinator executes the written complaint, they do not become the Complainant. The Complainant is the individual who is alleged to be the victim of conduct that could constitute a violation of this policy.

When Southeast TechSTC proceeds, the Complainant may have as much or as little involvement in the process as they wish. The Complainant retains all rights of a Complainant under this Policy irrespective of their level of participation.

Note that Southeast TechSTC's ability to remedy and respond to Notice may be limited if the Complainant does not want Southeast TechSTC to proceed with a Formal Complaint. The goal is to provide the Complainant with as much control over the process as possible, while balancing the Southeast TechSTC's obligation to protect its community.

In cases in which the Complainant requests confidentiality/no formal action and the circumstances allow Southeast TechSTC to honor that request, Southeast TechSTC will offer supportive measures to the Complainant and the community but will not otherwise pursue formal action.

If the Complainant elects to take no action, they can change that decision if they decide to pursue a Formal Complaint at a later date. Upon making a Formal Complaint, a Complainant has the right, and can expect, to have allegations taken seriously by Southeast TechSTC, and to have the incidents investigated and properly resolved through the Grievance Process. Please consider that delays may cause limitations on access to evidence, or present issues with respect to the status of the parties.

### Federal Timely Warning Obligations

Parties reporting sexual assault, domestic violence, dating violence, and/or stalking should be aware that under the Clery Act, ~~SouthEast TechSTC~~ must issue timely warnings for incidents reported to them that pose a serious or continuing threat of bodily harm or danger to members of the campus community.

~~SouthEast Technical College~~ will ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

### False Allegations and Evidence

Deliberately false and/or malicious accusations under this policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a policy violation determination.

Additionally, witnesses and parties knowingly providing false evidence, tampering with or destroying evidence, or deliberately misleading an official conducting an investigation can be subject to discipline under ~~SouthEast TechSTC~~ policy.

### Amnesty for Complainants and Witnesses

~~SouthEast Technical College~~ community encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to report to ~~SouthEast TechSTC~~ officials or participate in grievance processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons. It is in the best interests of the ~~SouthEast TechSTC~~ community that Complainants choose to report misconduct to ~~SouthEast TechSTC~~ officials, that witnesses come forward to share what they know, and that all parties be forthcoming during the process.

To encourage reporting and participation in the process, ~~SouthEast TechSTC~~ maintains a practice of offering parties and witnesses amnesty from minor policy violations—such as underage consumption of alcohol or the use of illicit drugs—related to the incident.

Amnesty does not apply to more serious allegations such as physical abuse of another or illicit drug distribution. The decision not to offer amnesty is based on neither sex nor gender, but on the fact that collateral misconduct is typically addressed for all students and employees within a progressive discipline system, and the rationale for amnesty—the incentive to report serious misconduct—is rarely applicable to Respondent with respect to a Complainant.

Sometimes, employees are hesitant to report sexual harassment or retaliation they have experienced for fear that they may get in trouble themselves. For example, an employee who has violated the consensual relationship policy and is then assaulted in the course of that relationship might hesitate to report the incident to Recipient officials.

The Recipient may, at its discretion, offer employee Complainants amnesty from such policy violations (typically more minor policy violations) related to the incident. Amnesty may also be granted to Respondents and witnesses on a case-by-case basis.

### External Administrative Contact Information

Inquiries may be made externally to:

Office for Civil Rights (OCR)  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, D.C. 20202-1100  
Customer Service Hotline #: (800) 421-3481  
Facsimile: (202) 453-6012  
TDD#: (877) 521-2172  
Email: [OCR@ed.gov](mailto:OCR@ed.gov)  
Web: <http://www.ed.gov/ocr>

The EEOC has jurisdiction over Title IX Employment Claims. For Title IX concerns involving employees, inquiries may be made externally to:

Minneapolis Area Office  
Towle Building  
330 South Second Avenue, Suite 720  
Minneapolis, MN 55401-2224  
Phone: (612) 552-7306  
TTY: (800) 669-6820  
ASL Video Phone: (844) 234-5122

### Revision of this Policy and Related Procedures

This Policy and related procedures supersede any previous policy(ies) addressing harassment, sexual misconduct and/or retaliation under Title IX and will be reviewed and updated annually by the Title IX Coordinator. ~~Southeast Tech~~STC reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

During the resolution process, the Title IX Coordinator may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules. The Title IX Coordinator may also vary procedures materially with notice (on the institutional website, with the appropriate effective date identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this Policy and procedures.

If government laws or regulations change—or court decisions alter—the requirements in a way that impacts this document, this document will be construed to comply with the most recent government regulations or holdings.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such policies and codes, generally.

### Overview of Policy Expectations with respect to physical sexual misconduct

See Appendix A

### Overview of Policy Expectations with respect to consensual relationships

There are inherent risks in any romantic or sexual relationship between individuals in unequal positions (such as teacher and student, supervisor and employee). These relationships may be less consensual than perceived by the individual whose position confers power. The relationship also may be viewed in different ways by each of the parties, particularly in retrospect. Furthermore, circumstances may change, and conduct that was previously welcome may become unwelcome. Even when both parties have consented at the outset to a romantic or sexual involvement, this past consent may not remove grounds for a later charge of a violation of applicable ~~Southeast Tech~~STC policies. ~~Southeast Tech~~STC does not wish to interfere with private choices regarding personal relationships when these relationships do not interfere with the goals and policies of the institute. For the personal protection of members of the community, relationships in which power differentials are inherent (faculty-student, staff-student, administrator-student, supervisor-supervisee) are generally discouraged.

Consensual romantic or sexual relationships in which one party maintains a direct supervisory or evaluative role over the other party are unethical. Therefore, persons with direct supervisory or evaluative responsibilities who are involved in such relationships must bring those relationships to the timely attention of their supervisor, and will likely result in the necessity to remove the employee from the supervisory or evaluative responsibilities, or shift the student out of being supervised or evaluated by someone with whom they have established a consensual relationship. While no relationships are prohibited by this policy, failure to self report such relationships to a supervisor as required can result in disciplinary action for an employee.

### Sexual Violence – Risk Reduction Tips

See Appendix G

### Sexual Misconduct Offenses Include, but are not limited to:

1. Sexual Harassment
2. Non-Consensual Sexual Contact (or attempts to commit same)
3. Non-Consensual Sexual Intercourse (or attempts to commit same)
4. Sexual Exploitation

### Sanctions

The following sanctions may be imposed upon any member of the community found to have violated the Sex/Gender Harassment, Discrimination and Misconduct Policy. The following are typical sanctions that may be imposed upon students or organizations singly or in combination.

**Student Sanctions (see Southeast Technical College's Catalog & Handbook for additional sanctioning information)**

- **Warning**
- **Probation**
- **Suspension**
- **Expulsion**

- ~~Transcript Notation~~
- ~~Organizational Sanctions~~
- ~~Other Actions~~

#### ~~Employee Sanctions (listed below and defined in the Employee Handbook)~~

- ~~Warning—Written or Verbal~~
- ~~Performance Improvement Plan~~
- ~~Required Counseling~~
- ~~Required Training or Education~~
- ~~Demotion~~
- ~~Suspension without Pay~~
- ~~Suspension with Pay~~
- ~~Termination~~

#### ~~Sanctioning for Sexual Misconduct~~

- ~~Any person found responsible for violating the Non-Consensual Sexual Contract policy (where no intercourse has occurred) will likely receive a sanction ranging from probation to expulsion, depending on the severity of the incident, and taking into account any previous disciplinary violations.\*~~
- ~~Any person found responsible for violating the Non-Consensual Sexual Intercourse definition will likely face a recommended sanction of suspension or expulsion (student) or suspension or termination (employee).\*~~
- ~~Any person found responsible for violating the Sexual Exploitation or Sexual Harassment policies will likely receive a recommended sanction ranging from warning to expulsion or termination, depending on the severity of the incident, and taking into account any previous disciplinary violations.\*~~

~~\* The decision-making body reserves the right to broaden or lessen any range of recommended sanctions in the case of serious mitigating circumstances or egregiously offensive behavior. Neither the initial hearing officers nor any appeals body or officer will deviate from the range or recommended sanctions unless compelling justification exists to do so.~~

#### ~~5. Dissemination of Policy and Training~~

~~The policy is located on STC's website under Consumer Information—[Southeast Tech](#)STC Policies~~

#### ~~Required Training of the Title IX Team~~

~~The Title IX Team consists of the Title IX Coordinator and the Grievance Process Pool (the Pool) who may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent. The Title IX Coordinator is trained annually, and Pool members will be trained in their role before participating in the Grievance Process.~~

All training materials for the Title IX Coordinator and the Pool must not rely on sex stereotypes and must promote impartial investigations and adjudications of Formal Complaints of sexual harassment. Training materials will be posted on the Title IX page of the [Southeast TechSTC](#) website.

Training for the Title IX Coordinator and the Pool will include where appropriate for the role:

- The application of [Southeast TechSTC](#)'s Sexual Harassment—Title IX Policy and Procedures
- How to serve impartially, including avoiding prejudgment of the facts at issue, conflicts of interest, and bias
- The definition of sexual harassment as it applies in this Policy
- The scope of [Southeast TechSTC](#)'s education program or activity
- How to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable
- Issues of relevance to create an investigation report that fairly summarizes relevant evidence
- Issues of relevance of questions and evidence, including when questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant
- Reporting, confidentiality, and privacy requirements
- How to use any technology to be used at a live hearing

#### **APPENDIX A: POLICY EXAMPLES**

Some examples of possible sexual harassment include:

- A professor offers for a student to have sex or go on a date with them in exchange for a good grade. This constitutes sexual harassment regardless of whether the student accedes to the request and irrespective of whether a good grade is promised or a bad grade is threatened.
- A student repeatedly sends graphic, sexually oriented jokes and pictures around campus via social media to hundreds of other students. Many don't find it funny and ask them to stop, but they do not. Because of these jokes, one student avoids the sender on campus and in the residence hall in which they both live, eventually asking to move to a different building and dropping a class they had together.
- A professor engages students in class in discussions about the students' past sexual experiences, yet the conversations are not in any way germane to the subject matter of the class. The professor inquires about explicit details and demands that students answer them, though the students are clearly uncomfortable and hesitant.
- An ex-partner widely spreads false stories about their sex life with their former partner to the clear discomfort and frustration of the former partner, turning the former partner into a social pariah on campus.
- Chris has recently transitioned from male to non-binary, but primarily expresses as a female. Since their transition, Chris has noticed that their African Studies professor, Dr. Mukembo, pays them a lot more attention. Chris is sexually attracted to Professor Mukembo and believes the attraction is mutual. Chris decides to act on the attraction. One day, Chris visits Dr. Mukembo during office hours, and after a long conversation about being non-binary, Chris kisses Dr. Mukembo. Dr. Mukembo is taken aback, stops the kiss, and tells Chris not to do that. Dr. Mukembo explains to Chris that they are not interested in Chris sexually or romantically. Chris takes it hard, crying to Dr. Mukembo about how hard it is to find someone who is interested in

them now based on their identity. Dr. Mukembo feels sorry for Chris and softens the blow by telling them that no matter whether they like Chris or not, faculty-student relationships are prohibited by the university. Chris takes this as encouragement. One night, Chris goes to a gay bar some distance from campus and sees Dr. Mukembo at the bar. Chris tries to buy Dr. Mukembo a drink and, again, tries to kiss Dr. Mukembo. Dr. Mukembo leaves the bar abruptly. The next day, Chris makes several online posts that out Dr. Mukembo as gay and raise questions about whether they are sexually involved with students. Dr. Mukembo contacts the Title IX Office and alleges that Chris is sexually harassing him.

#### Examples of Stalking

- Students A and B were “friends with benefits.” Student A wanted a more serious relationship, which caused student B to break it off. Student A could not let go, and pursued student B relentlessly. Student B obtained a campus no-contact order. Subsequently, Student B discovered their social media accounts were being accessed, and things were being posted and messaged as if they were from them, but they were not. Whoever accessed their account posted a picture of a penis, making it look as if they had sent out a picture of themselves, though it was not their penis. This caused them considerable embarrassment and social anxiety. They changed their passwords, only to have it happen again. Seeking help from the Title IX Coordinator, Student B met with the IT department, which discovered an app on their phone and a keystroke recorder on their laptop, both of which were being used to transmit their data to a third party.
- A graduate student working as an on-campus tutor received flowers and gifts delivered to their office. After learning the gifts were from a student they recently tutored, the graduate student thanked the student and stated that it was not necessary and would appreciate it if the gift deliveries stopped. The student then started leaving notes of love and gratitude on the tutor’s car, both on-campus and at home. Asked again to stop, the student stated by email, “You can ask me to stop, but I’m not giving up. We are meant to be together, and I’ll do anything to make you have the feelings for me that I have for you.” When the tutor did not respond, the student emailed again, “You cannot escape me. I will track you to the ends of the earth. If I can’t have you, no one will.”

#### Examples of Sexual Assault:

- Amanda and Bill meet at a party. They spend the evening dancing and getting to know each other. Bill convinces Amanda to come up to his room. From 11:00 p.m. until 3:00 a.m., Bill uses every line he can think of to convince Amanda to have sex with him, but she adamantly refuses. Despite her clear communications that she is not interested in doing anything sexual with him, Bill keeps at her, questions her religious convictions, and accuses her of being “a prude.” He brings up several rumors that he has heard about how she performed oral sex on a number of other guys. Finally, it seems to Bill that her resolve is weakening, and he convinces her to “jerk him off” (hand to genital contact). Amanda would have never done it but for Bill’s incessant advances. He feels that he successfully seduced her and that she wanted to do it all along but was playing shy and hard to get. Why else would she have come up to his room alone after the party? If she really didn’t want it, she could have left.
- Jiang is a junior. Beth is a sophomore. Jiang comes to Beth’s residence hall room with some mutual friends to watch a movie. Jiang and Beth, who have never met before, are attracted to

each other. After the movie, everyone leaves, and Jiang and Beth are alone. They hit it off, soon become more intimate, and start to make out. Jiang verbally expresses his desire to have sex with Beth. Beth, who was abused by a babysitter at the age of five and avoids sexual relations as a result, is shocked at how quickly things are progressing. As Jiang takes her by the wrist over to the bed, lays her down, undresses, and begins to have intercourse with Beth, Beth has a severe flashback to her childhood trauma. She wants to tell Jiang to stop but cannot. Beth is stiff and unresponsive during the intercourse.

- Kevin and John are at a party. Kevin is not sure how much John has been drinking, but he is pretty sure it's a lot. After the party, he walks John to his apartment, and John comes on to Kevin, initiating sexual activity. Kevin asks John if he is really up to this, and John says yes. They remove each other's clothes, and they end up in John's bed. Suddenly, John runs for the bathroom. When he returns, his face is pale, and Kevin thinks he may have thrown up. John gets back into bed, and they begin to have sexual intercourse. Kevin is having a good time, though he can't help but notice that John seems pretty groggy and passive, and he thinks John may have even passed out briefly during the sex, but he came to again. When Kevin runs into John the next day, he thanks him for the great night. John remembers nothing and decides to make a report to the Dean.

#### Examples of Retaliation:

- Student athlete A alleges sexual harassment by a coach; the coach subsequently cuts the student athlete's playing time without a legitimate justification.
- A faculty member alleges gender inequity in pay within her department; the Department Chair then revokes his approval for her to attend a national conference, citing the faculty member's tendency to "ruffle feathers."
- A student from Organization A participates in a sexual harassment investigation as a witness whose testimony is damaging to the Respondent, who is also a member of Organization A; the student is subsequently removed as a member of Organization A because of their participation in the investigation.

### APPENDIX A:

#### OVERVIEW OF POLICY EXPECTATIONS WITH RESPECT TO PHYSICAL SEXUAL MISCONDUCT

The expectations of our community regarding sexual misconduct can be summarized as follows:

- In order for individuals to engage in sexual activity of any type with each other, there must be clear, knowing and voluntary consent prior to and during sexual activity.
- Consent is sexual permission. Consent can be given by word or action, but non-verbal consent is not as clear as talking about what you want sexually and what you do not.
- Consent to some form of sexual activity cannot be automatically taken as consent to any other form of sexual activity.
- Previous consent does not imply consent to sexual activity in the future.
- Silence or passivity—without actions demonstrating permission—cannot be assumed to show consent.
- Consent, once given, can be withdrawn at any time. There must be a clear indication that consent is being withdrawn.

Additionally, there is a difference between seduction and coercion. Coercing someone into sexual activity violates this policy in the same way as physical forcing someone into sex. Coercion happens when someone is pressured unreasonably for sex.

Because alcohol or other drug use can place the capacity to consent in question, sober sex is less likely to raise such questions. When alcohol or other drugs are being used, a person will be considered unable to give valid consent if they cannot fully understand the details of a sexual interaction (who, what, when, where, why, or how) because they lack the capacity to reasonably understand the situation. Individuals who consent to sex must be able to understand what they are doing. Under the policy, "No" always means "No", and "Yes" may not always mean "Yes". Anything but a clear, knowing and voluntary consent to any sexual activity is the equivalent to a "no".

#### **APPENDIX B:**

##### **EXAMPLES OF POSSIBLE SEXUAL HARASSMENT**

- A professor insists that a student have sex with him/her in exchange for a good grade. This is harassment regardless of whether the student consents to the request.
- A student repeatedly sends sexually oriented jokes around on an e-mail list s/he created, even when asked to stop, causing one recipient to avoid the sender on campus.
- Explicit sexual pictures are displayed in a professor's office or on the exterior of a student housing apartment door.
- Two staff members frequently 'rate' several employees' bodies and sex appeal, commenting suggestively about their clothing and appearance.
- A professor engages students in her class in discussions about their past sexual experiences, yet the conversation is not in any way relevant to the subject matter of the class. She probes for explicit details, and demands the students answer her, though they are clearly uncomfortable and hesitant.
- An ex-girlfriend widely spreads false stories about her sex life with her former boyfriend to the clear discomfort of the boyfriend, turning him into a social pariah on campus.
- A student grabbed another student by the hair, then grabbed her breast and put his mouth on it. While this is sexual harassment, it is also a form of sexual violence.

#### **APPENDIX C:**

##### **EXAMPLES OF SEXUAL EXPLOITATION**

- Invasion of sexual privacy;
- Prostituting another person;
- Non-consensual digital, video or audio recording of nudity or sexual activity;
- Engaging in voyeurism;
- Going beyond the boundaries of consent (such as letting your friend hide in the closet to watch you having consensual sex);
- Knowingly exposing someone to or transmitting an STI, STD, or HIV to another person;
- Intentionally or recklessly exposing one's genitals in non-consensual circumstances; inducing another to expose their genitals;
- Sexually based stalking and/or bullying may also be forms of sexual exploitation

## APPENDIX D:

### EXAMPLES OF NON-CONSENSUAL SEXUAL CONTACT

#### AND

#### NON-CONSENSUAL SEXUAL INTERCOURSE

1. Amanda and Bill meet at a party. They spend the evening dancing and getting to know each other. Bill convinces Amanda to go to his apartment. From 11:00pm until 3:00am, Bill uses every line he can think of to convince Amanda to have sex with him, but she adamantly refuses. He keeps at her, and begins to question her religious convictions, and accuses her of being "a prude". Finally, it seems to Bill that her resolve is weakening, and he convinces her to give him a "hand job" (hand to genital contact). Amanda would never had done it but for Bill's incessant advances. He feels that he successfully seduced her, and that she wanted to do it all along, but was playing shy and hard to get. Why else would she have come up to his room alone after the party? If she really didn't want it, she could have left. **Bill is responsible for violating Southeast TechSTC's Non-Consensual Sexual Contact definition. It is likely that campus decision-makers would find that the degree and duration of the pressure Bill applied to Amanda are unreasonable. Bill coerced Amanda into performing unwanted sexual touching upon him. Where sexual activity is coerced, it is forced. Consent is not valid when forced. Sex without consent is sexual misconduct.**
2. Tom is a second year student. Beth is a first year student. Tom comes to Beth's on-campus apartment with some mutual friends to watch a movie. Tom and Beth, who have never met before, are attracted to each other. After the movie, everyone leaves, and Tom and Beth are alone. They hit it off, and are soon becoming more intimate. They start to make out. Tom verbally expresses his desire to have sex with Beth. Beth, who was abused by a babysitter when she was five, and has not had any sexual relations since, is shocked at how quickly things are progressing. As Tom takes her by the wrist over to the bed, lays her down, undresses her, and begins to have intercourse with her, Beth has a sever flashback to her childhood trauma. She wants to tell Tom to stop, but cannot. Beth is stiff and unresponsive during the intercourse. Is this a policy violation? **Tom would be held responsible in this scenario for Non-Consensual Sexual Intercourse. It is the duty of the sexual initiator, Tom, to make sure that he has mutually understandable consent to engage in sex. Though consent need not be verbal, it is the clearest form of consent. Here, Tom had no verbal or nonverbal mutually understandable indication from Beth that she consented to sexual intercourse. Of course, whenever possible, it is important to be as clear as possible as to whether or not sexual contact is desired, and to be aware that for psychological reasons, or because of alcohol or drug use, one's partner may not be in a position to provide as clear an indication as the policy requires. As the policy makes clear, consent must be actively, not passively, given.**
3. Kevin and John are at a party. Kevin is not sure how much John has been drinking, but he is pretty sure it's a lot. After the party, he walks John to his room, and John comes on to Kevin, initiating sexual

activity. Kevin asks John if he is really up to this, and John says yes. Clothes go flying, and they end up on John's bed. Suddenly, John runs for the bathroom. When he returns, his face is pale, and Kevin thinks he may have thrown up. John gets back into bed, and they begin to have sexual intercourse. Kevin is having a good time, though he can't help but notice that John is pretty groggy and passive, and he thinks John may have even passed out briefly during the sex, but he does not let that stop him. When Kevin runs into John the next day, he thanks him for the wild night. John remembers nothing, and decides to make a report to the VP of Student Services. **This is a violation of the Non-Consensual Sexual Intercourse definition. Kevin should have known that John was incapable of making a rational, reasonable decision about sex. Even if John seemed to consent, Kevin was well aware that John had consumed a large amount of alcohol, and Kevin thought John was physically ill, and that he passed out during sex. Kevin should be held accountable for taking advantage of John in his condition. This is not the level of respectful conduct Southeast TechSTC expects.**

#### APPENDIX E:

##### EXAMPLES OF STALKING

1. A student repeatedly shows up at another student's on-campus residence, always notifying her roommates that they are there to see the resident. The student informs housing staff that this visitor wasn't invited and continuously attempts to see them, even so far as waiting for them outside of classes and showing up to their on-campus work study and requesting they go out on a date together. **This is an example of Stalking 1.**
2. A student working as an on-campus tutor received flowers and gifts delivered to the Success Lab. After learning the gifts were from a student s/he recently tutored, the student thanked the student and stated that it was not necessary and would appreciate the gift deliveries to stop. The student then started leaving notes of love and gratitude on the student's car, both on-campus and at home. Asked again to stop, the student stated by email "You can ask me to stop, but I'm not giving up. We are meant to be together, and I'll do anything necessary to make you have the feelings for me that I have for you." When the tutor did not respond, the student emailed again, "You cannot escape me. I will track you down to the ends of the earth. We are meant to be together". **This is an example of Stalking 2.**

#### APPENDIX F:

##### QUESTIONS AND ANSWERS

Here are some of the most commonly asked questions regarding **Southeast TechSTC's** misconduct policy and procedures.

*Does information about a report remain private?*

The privacy of all parties to a report of sexual misconduct must be respected, except insofar as it interferes with **Southeast TechSTC's** obligation to fully investigate allegations of sexual misconduct.

Where privacy is not strictly kept, it will still be tightly controlled on a need-to-know basis. Southeast Technical College will not disseminate information and/or written materials to persons not involved in the resolution process without consent of both parties. Witnesses are also required to maintain the privacy of information shared with them during interviews and/or hearings. Violations of the privacy of the reporting party or the responding party may lead to conduct action by the institute, though both parties are allowed to share their perspectives and experiences. All parties, including witnesses, involved in an allegation are strongly encouraged to maintain the privacy of information and/or written materials.

In all resolutions of sexual misconduct, reporting and responding parties will be informed of the outcome. In some instances, the administration also may choose to make a brief public announcement of the nature of the violation and the action taken, without using the name or identifiable information of the alleged victim. Certain administrators are informed of the outcome within the bounds of student privacy. If there is a report of an act of alleged sexual misconduct to a conduct officer of the institute and there is evidence that a felony has occurred, local police will be notified. This does not mean that charges will be automatically filed or that a victim must speak with the police, but Southeast TechSTC is legally required to notify law enforcement authorities. Southeast TechSTC also must statistically report the occurrence on campus of major violent crimes, including certain sex offenses, in an "Annual Security Report" of campus crime statistics. This statistical report does not include personally identifiable information.

*Will my parents be told?*

Southeast Technical College will not inform your parents unless you are under the age of 18, in the case of a life-threatening situation, or if explicitly requested to do so by the reporting or responding party. Whether you are the reporting party or the responding party, Southeast TechSTC's primary relationship is to the student and not to the parent. However, in the event of major medical, disciplinary, or academic jeopardy, students are strongly encouraged to inform their parents.

*Will the responding party know my identity?*

Yes, if Southeast TechSTC determines there is reasonable cause to believe a violation has occurred and investigates the matter. The responding party has a right to know the identity of the reporting party. If there is a hearing, Southeast TechSTC does provide options for questioning without confrontation, including closed-circuit testimony, Skype, using a room divider or using separate hearing rooms.

*Do I have to name the responding party?*

Yes, if you want formal disciplinary action to be taken against the responding party. You can report the incident without the identity of the responding party, but doing so may limit the institute's ability to respond comprehensively.

*What do I do if I am accused of sexual misconduct?*

DO NOT contact the reporting party. You may immediately want to contact someone who can act as your advocate; anyone may serve as your advocate. You may also contact the Vice President of Student Affairs, who can explain the institute's procedures for addressing sexual misconduct reports. You may

also want to talk to a confidential counselor or seek other community assistance. See below regarding legal representation.

*Will I (as a victim) have to pay for counseling/medical care?*

If a physician, hospital, or clinic examines the victim of an alleged rape or sexual offense the examination shall be provided without cost to the victim. Southeast TechSTC's on-campus counselors provide their services free of charge.

*What about legal advice?*

Victims of criminal sexual assault need not retain a private attorney to pursue criminal prosecution because representation will be handled by the District Attorney's office. You may want to retain an attorney if you are considering filing a civil action or are the responding party. The responding party may retain counsel at their own expense if they determine that they need legal advice about criminal prosecution and/or the campus conduct proceeding. Both the responding party and the reporting party may also use an attorney as their advocate during the campus' resolution process. Attorneys are subject to the same restrictions as other advocates in the process described in the grievance procedures.

*What about changing on-campus apartments?*

If you live in Southeast TechSTC's on-campus apartments, you may request a room change if you want to move. Room changes under these circumstances are considered emergencies. It is typically institutional policy that in emergency room changes, the student is moved to the first available suitable room. If the responding party also lives in the on-campus apartments and you prefer that s/he be moved to another apartment, that request will be evaluated by the Title IX Coordinator to determine if it can be honored. Other assistance and modifications available to you might include:

- Assistance from Southeast TechSTC Housing Staff in completing a room relocation;
- Arranging to dissolve a housing contract and pro-rating a refund
- Help with finding an off-campus residential alternative
- Assistance with or rescheduling an academic assignment (paper, exams, etc.) or otherwise implementing academic assistance;
- Taking an incomplete in a class; 17
- Assistance with transferring class sections;
- Temporary withdrawal;
- Assistance with alternative course completion options;
- Escorts to and from campus locations;
- On or off-campus counseling assistance;
- Transportation assistance or support;
- Other accommodations for safety as necessary.

*What should I do about preserving evidence of a sexual assault?*

Police are in the best position to secure evidence of a crime. Physical evidence of a criminal sexual assault must be collected from the alleged victim's person within 120 hours, though evidence can often be obtained from towels, sheets, clothes, etc. for much longer periods of time. If you believe you have been a victim of a criminal sexual assault, you should go to the nearest Hospital Emergency Room

(Sanford-USD Medical Center, located at 1305 W 18th St.), before washing yourself or your clothing. The Sexual Assault Nurse Examiner (a specially trained nurse) at the hospital is usually on call 24 hours a day, 7 days a week (call the Emergency Room at 605-333-6688 if you first want to speak to the nurse; ER will refer you). If a victim goes to the hospital, local police will be called, but s/he is not obligated to talk to the police or pursue prosecution. Having the evidence collected in this manner will help keep all options available to a victim, but will not oblige him or her to any course of action. Collecting evidence can assist the authorities in pursuing criminal charges, should the victim decide later to exercise it.

For the Victim: the hospital staff will collect evidence, check for injuries, address pregnancy concerns and address the possibility of exposure to sexually transmitted infections. If you have changed clothing since the assault, bring the clothing you had on at the time of the assault with you in a clean, sanitary container such as a clean paper grocery bag or wrapped in a clean sheet (plastic containers do not breathe, and may render evidence useless). If you have not changed clothes, bring a change of clothes with you to the hospital, if possible, as they will likely keep the clothes you are wearing as evidence. You can take a support person with you to the hospital, and they can accompany you through the exam, if you want. Do not disturb the crime scene—leave all sheets, towels, etc. that may bear evidence for the police to collect.

*Will a victim be sanctioned when reporting a sexual misconduct policy violation if he/she has illegally used drugs or alcohol?*

No. The seriousness of sexual misconduct is a major concern and [Southeast TechSTC](#) does not want any of the circumstances (e.g. drug or alcohol use) to inhibit the reporting of sexual misconduct. The institute provides amnesty from any consequences for minor policy violations that occur during or come to light as the result of a victim's report of sexual misconduct.

*Will the use of drugs or alcohol affect the outcome of a sexual misconduct conduct resolution?*

The use of alcohol and/or drugs by either party will not diminish the responding party's responsibility. On the other hand, alcohol and/or drug use is likely to affect the reporting party's memory and, therefore, may affect the resolution of the reported misconduct. A reporting party must either remember the alleged incident or have sufficient circumstantial evidence, physical evidence and/or witnesses to prove that policy was violated. If the reporting party does not remember the circumstances of the alleged incident, it may not be possible to impose sanctions on the responding party without further corroborating information. Use of alcohol and/or other drugs will never excuse a violation by a responding party.

*Will either party's prior use of drugs and/or alcohol be a factor when reporting sexual misconduct?*

Not unless there is compelling reason to believe that prior use or abuse is relevant to the present matter.

*What should I do if I am uncertain about what happened?*

If you believe that you have experienced sexual misconduct, but are unsure of whether it was a violation or the institute's sexual misconduct policy, you should contact [Southeast TechSTC's](#) Title IX Coordinator (not confidential) or one of [Southeast TechSTC's](#) on-campus counselors.

#### **APPENDIX G:**

## RISK REDUCTION TIPS

Risk reduction tips can often take a victim-blaming tone, even unintentionally. Only those who commit sexual violence are responsible for those actions. We offer the tips below with no intention to victim-blame, with recognition that these suggestions may nevertheless help you to reduce your risk of experiencing a non-consensual sexual act. Below, suggestions to avoid committing a non-consensual sexual act are also offered:

- If you have limits, make them known as early as possible.
- Tell a sexual aggressor “NO” clearly and firmly.
- Try to remove yourself from the physical presence of a sexual aggressor.
- Find someone nearby and ask for help.
- Take affirmative responsibility for your alcohol intake/drug use and acknowledge that alcohol/drugs lower your sexual inhibitions and may make you vulnerable to someone who views a drunk or high person as a sexual opportunity.
- Take care of your friends and ask that they take care of you. A real friend will challenge you if you are about to make a mistake. Respect them when they do.
- If you find yourself in the position of being the initiator of sexual behavior, you owe sexual respect to your potential partner. These suggestions may help you to reduce your risk for being accused of sexual misconduct.
- Clearly communicate your intentions to your sexual partner and give them a chance to clearly relate their intentions to you.
- Understand and respect personal boundaries.
- **DON'T MAKE ASSUMPTIONS** about consent; about someone's sexual availability; about whether they are attracted to you; about how far you can go or about whether they are physically and/or mentally able to consent. Your partner's consent should be affirmative and continuous. If there are any questions or ambiguity then you **DO NOT** have consent.
- Mixed messages from your partner are a clear indication that you should stop, defuse any sexual tension and communicate better. You may be misreading them. They may not have figured out how far they want to go with you yet. You must respect the timeline for sexual behaviors with which they are comfortable.
- Don't take advantage of someone's drunkenness or altered state, even if they willingly consumed alcohol or substances.
- Realize that your potential partner could feel intimidated or coerced by you. You may have a power advantage simply because of your gender or physical presence. Don't abuse that power.
- Understand that consent to some form of sexual behavior does not automatically imply consent to any other forms of sexual behavior.
- Silence, passivity, or non-responsiveness cannot be interpreted as an indication of consent. Read your potential partner carefully, paying attention to verbal and nonverbal communication and body language.

Legal References:

Title IX of the US Education Amendments of 1972; 34 CFR Part 106; 20 U.S.C. 1092(f)(6)(A)(v); 34 U.S.C. 12291(a)(10); 34 U.S.C. 12291(a)(8); U.S.C. 12291(a)(30); Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act); Violence Against Women Act (VAWA); Family Educational Rights and Privacy Act (FERPA); 20 U.S.C. 1232g; FERPA regulations; 34 CFR part 99

~~ATIXA 2020 INTERIM MODEL SEXUAL HARASSMENT POLICIES AND PROCEDURES  
USE AND ADAPTATION OF THIS MODEL WITH CITATION TO ATIXA IS PERMITTED  
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~~Board Approved:-~~

~~Policy \_\_\_\_\_ Board Action~~

~~Adopted: 09.05.18 ST00331 (formerly JICK/STC 07-01-25)~~

~~Amended: 09.30.20 ST00495~~

~~Regulation \_\_\_\_\_ Board Action~~

~~Approved: 09.05.18 ST00331 (formerly JICK R/STC 07-01-25)~~



## ~~Policies and Regulations~~

~~NEPN Code: JICK R/STI~~

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### ~~Students~~

#### ~~Sex/Gender Harassment, Discrimination and Misconduct~~

##### ~~Title IX Coordinator~~

~~Southeast Tech's Title IX Coordinator oversees compliance with all aspects of the sex/gender harassment, discrimination and misconduct policy. Questions about this policy should be directed to the Title IX Coordinator. Anyone wishing to make a report relating to discrimination or harassment may do so by reporting the concern to the Title IX Coordinator.~~

~~Name: Tracy Noldner~~

~~Title: Executive Director of Student Affairs & Institutional Effectiveness/Title IX Phone:~~

~~(605) 367-7487~~

Email: ~~Tracy.Noldner@southeasttech.edu~~

~~Individuals experiencing harassment or discrimination always have the right to file a formal grievance with government authorities:~~

~~Office for Civil Rights (OCR)  
Kansas City Office  
U.S. Department of Education  
One Petticoat Lane  
1010 Walnut Street, Suite 320  
Kansas City, MO 64106  
Telephone: (816) 268-0550  
Fax: (816) 268-0559  
Email: [OCR.KansasCity@ed.gov](mailto:OCR.KansasCity@ed.gov)  
Web: <http://www.ed.gov/ocr>~~

~~U.S. Department of Justice Civil Rights Division  
950 Pennsylvania Avenue, N.W.  
Educational Opportunities Section, PHB  
Washington, D.C. 20530  
By e-mail to: [education@usdoj.gov](mailto:education@usdoj.gov)  
By telephone at (202) 514-4092 or 1-877-292-3804 (toll free)~~

~~In the event that an incident involves alleged misconduct by the Title IX Coordinator, reports should be made directly to the President of Southeast Tech.~~

### ~~Overview of Policy Expectations with respect to physical sexual misconduct~~

~~See Appendix A~~

### ~~Overview of Policy Expectations with respect to consensual relationships~~

~~There are inherent risks in any romantic or sexual relationship between individuals in unequal positions (such as teacher and student, supervisor and employee). These relationships may be less consensual than perceived by the individual whose position confers power. The relationship also may be viewed in different ways by each of the parties, particularly in retrospect. Furthermore, circumstances may change, and conduct that was previously welcome may become unwelcome. Even when both parties have consented at the outset to a romantic or sexual involvement, this past consent may not remove grounds for a later charge of a violation of applicable Southeast Tech policies. Southeast Tech does not~~

~~wish to interfere with private choices regarding personal relationships when these relationships do not interfere with the goals and policies of the institute. For the personal protection of members of the community, relationships in which power differentials are inherent (faculty-student, staff-student, administrator-student, supervisor-supervisee) are generally discouraged.~~

~~Consensual romantic or sexual relationships in which one party maintains a direct supervisory or evaluative role over the other party are unethical. Therefore, persons with direct supervisory or evaluative responsibilities who are involved in such relationships must bring these relationships to the timely attention of their supervisor, and will likely result in the necessity to remove the employee from the supervisory or evaluative responsibilities, or shift the student out of being supervised or evaluated by someone with whom they have established a consensual relationship. While no relationships are prohibited by this policy, failure to self-report such relationships to a supervisor as required can result in disciplinary action for an employee.~~

### ~~Sexual Violence — Risk Reduction Tips~~

~~See Appendix G~~

### ~~Sexual Misconduct Offenses Include, but are not limited to:~~

- ~~1. Sexual Harassment~~
- ~~2. Non-Consensual Sexual Contact (or attempts to commit same)~~
- ~~3. Non-Consensual Sexual Intercourse (or attempts to commit same)~~
- ~~4. Sexual Exploitation~~

### ~~1. SEXUAL HARASSMENT~~

~~Sexual Harassment is:~~

- ~~• unwelcome,~~
- ~~• sexual, sex-based and/or gender-based verbal, written, online and/or physical conduct.~~

~~Anyone experiencing sexual harassment at Southeast Tech is encouraged to report it immediately to the Title IX Coordinator or an administrator. Remedies, education and or/training will be provided in response.~~

~~Sexual harassment may be disciplined when it takes the form of quid pro quo harassment, retaliatory harassment and/or creates a hostile environment.~~

~~A hostile environment is created when sexual harassment is:~~

- ~~• sufficiently severe, or~~

- ~~persistent or pervasive, and~~
- ~~objectively offensive that it:~~
  - ~~Unreasonably interferes with, denies or limits someone's ability to participate in or benefit from Southeast Tech's educational and/or employment, social and/or residential program.~~

~~Quid Pro Quo Harassment is:~~

- ~~Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature~~
- ~~By a person having power or authority over another constitutes sexual harassment when:~~
  - ~~Submission to such sexual conduct is made either explicitly or implicitly a term or condition of rating or evaluating an individual's educational or employment progress, development or performance.~~
  - ~~This includes when submission to such conduct would be a condition for access to receiving the benefits of any educational or employment program.~~

~~Examples of possible Sexual Harassment can be found in Appendix B.~~

## ~~2. NON-CONSENSUAL SEXUAL CONTACT~~

~~Non-Consensual Sexual Contact is:~~

- ~~Any intentional sexual touching,~~
- ~~however slight,~~
- ~~with any object,~~
- ~~by a person upon another person,~~
- ~~that is without consent and/or by force~~

~~Sexual Contact includes:~~

- ~~Intentional contact with the breasts, buttock, groin, or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; or~~
- ~~Any other intentional bodily contact in a sexual manner.~~

## ~~3. NON-CONSENSUAL SEXUAL INTERCOURSE~~

~~Non-Consensual Sexual Intercourse is:~~

- Any sexual intercourse
- however slight,
- with any object,
- by a person upon another person,
- that is without consent and/or by force.

Intercourse includes:

- vaginal or anal penetration by a penis, object, tongue or finger, and oral copulation (mouth to genital contact), no matter how slight the penetration or contact.

#### 4. SEXUAL EXPLOITATION

Sexual exploitation occurs when one person takes non-consensual or abusive sexual advantage of another for his/her own advantage, or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of the other sexual misconduct offenses.

For examples of sexual exploitation, see Appendix C.

#### ADDITIONAL APPLICABLE DEFINITIONS

- Consent:

- Consent is
    - Clear, and
    - knowing, and
    - affirmative, conscious and voluntary
    - words or actions,
    - that give permission for specific sexual activity.
  - Consent is active, not passive.
  - Silence, in and of itself, cannot be interpreted as consent.
  - Consent can be given by words or actions, as long as those words or actions create mutually understandable permission regarding willingness to engage in (and the conditions of) sexual activity.
  - Previous relationships or prior consent cannot imply consent to future sexual acts.
- 
- Consent can be withdrawn once given, as long as that withdrawal is clearly communicated.
  - In order to give consent, one must be of legal age.
  - Sexual activity with someone you know to be or should know to be incapacitated constitutes a violation of this policy.
    - Incapacitation can occur mentally or physically, from developmental disability,

by alcohol or other drug use, or blackout.

- The question of what the responding party should have known is objectively based on what a reasonable person in the place of the responding party, sober and exercising good judgment, would have known about the condition of the reporting party.
  - Incapacitation is a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent (e.g., to understand the “who, what, when, where, why or how” of their sexual interaction).
  - This policy also covers a person whose incapacity results from mental disability, sleep, unconsciousness, involuntary physical restraint, or from the taking of rape drugs. (Possession, use and/or distribution of any of these substances, including Rohypnol, Ketamine, GHB, Burundanga, etc. is prohibited, and administering one of these drugs to another person is a violation of this policy. More information on these drugs can be found at <http://www.911rape.org/>)
- 
- Force: Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats) and coercion that overcomes free will or resistance or that produces consent.
    - Coercion is unreasonable pressure for sexual activity. When someone makes clear to you that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.
    - NOTE: There is no requirement for a party to resist the sexual advance or request, but resistance is a clear demonstration of non-consent. The presence of force is not demonstrated by the absence of resistance. Sexual activity that is forced is by definition non-consensual, but non-consensual sexual activity is not by definition forced.
- 
- Use of alcohol or other drugs will never function to excuse any behavior that violates this policy.
  - This policy is applicable regardless of the sexual orientation and/or gender identity of the individuals engaging in sexual activity.

- ~~For reference to the pertinent state statutes on sex offenses, please see~~

~~[http://legis.sd.gov/Statutes/Codified\\_Laws/DisplayStatute.aspx?Type=Statute&Statute=22-22](http://legis.sd.gov/Statutes/Codified_Laws/DisplayStatute.aspx?Type=Statute&Statute=22-22)~~

~~For examples of Non-Consensual Sexual Contact and Non-Consensual Sexual Intercourse, please see Appendix D.~~

### ~~Other misconduct offenses (will fall under Title IX when sex or gender based)~~

- ~~1. Threatening or causing physical harm, extreme verbal abuse, or other conduct which threatens or endangers the health or safety of any person;~~
- ~~2. Discrimination, defined as actions that deprive other members of the community of educational or employment access, benefits, or opportunities on the basis of sex or gender;~~
- ~~3. Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another;~~
- ~~4. Hazing, defined as an act against a student or coercing a student into committing an act that creates a risk of harm to a person, in order for the student to be initiated into or affiliated with a student organization (school, group, club, team, activity, event, etc.) or for any other purpose (as defined further in the Hazing Policy—JICFA/STI JICFA-R/STI).~~
- ~~5. Bullying, defined as
  - ~~a. Repeated and/or severe~~
  - ~~b. Aggressive behavior~~
  - ~~c. Likely to intimidate or intentionally hurt, control or diminish another person, physically or mentally~~
  - ~~d. That is not speech or conduct otherwise protected by the 1st Amendment.~~~~
- ~~6. Intimate Partner Violence, defined as physical harm, bodily injury, or attempts to cause physical harm or bodily injury, the infliction of fear of imminent physical harm or bodily injury, or a pattern of abusive behaviors between one or more partners in an intimate relationship.
  - ~~a. A boyfriend shoves his girlfriend into a wall upon seeing her talking to a male friend. This physical assault based in jealousy is a violation of the Intimate Partner Violence definition.~~
  - ~~b. An ex-girlfriend shames her female partner, threatening to out her as a lesbian if she doesn't give the ex another chance. Psychological abuse is a form of Intimate Partner Violence.~~
  - ~~c. A student refuses to wear a condom and forces his girlfriend to take hormonal birth control though it makes her ill, in order to prevent pregnancy.~~
  - ~~d. Married employees are witnessed in the parking lot, with one partner slapping and scratching the other in the midst of an argument.~~~~
- ~~7. Stalking
  - ~~a. Stalking 1:~~~~

- ~~i. A course of conduct~~
- ~~ii. Directed at a specific person~~
- ~~iii. On the basis of actual or perceived membership in a protected class~~
- ~~iv. That is unwelcome, AND~~
- ~~v. Would cause a reasonable person to fear~~
- ~~b. Stalking 2:~~
  - ~~i. Repetitive and Menacing~~
  - ~~ii. Pursuit, following, harassing and or interfering with the peace and/or safety of another~~
- ~~c. Examples of Stalking — See Appendix E~~

~~8. Any other Southeast Tech policy may fall within this section when a violation is motivated by the actual or perceived membership of the reporting party's sex or gender.~~

## **Retaliation**

~~Retaliation is defined as any adverse action taken against a person participating in a protected activity because of their participation in that protected activity (subject to limitations imposed by the 1st Amendment and/or Academic Freedom). Retaliation against an individual for an allegation, for supporting a reporting party or for assisting in providing information relevant to an allegation is a serious violation of Southeast Tech policy.~~

## **Sanctions**

~~The following sanctions may be imposed upon any member of the community found to have violated the Sex/Gender Harassment, Discrimination and Misconduct Policy. The following are typical sanctions that may be imposed upon students or organizations singly or in combination.~~

### **Student Sanctions (see Southeast Tech's Catalog & Handbook for additional sanctioning information)**

- ~~• Warning~~
- ~~• Probation~~
- ~~• Suspension~~
- ~~• Expulsion~~
- ~~• Transcript Notation~~
- ~~• Organizational Sanctions~~
- ~~• Other Actions~~

### **Employee Sanctions (listed below and defined in the Employee Handbook)**

- ~~Warning – Written or Verbal~~
- ~~Performance Improvement Plan~~
- ~~Required Counseling~~

- ~~Required Training or Education~~
- ~~Demotion~~
- ~~Suspension without Pay~~
- ~~Suspension with Pay~~
- ~~Termination~~

#### ~~Sanctioning for Sexual Misconduct~~

- ~~Any person found responsible for violating the Non-Consensual Sexual Contract policy (where no intercourse has occurred) will likely receive a sanction ranging from probation to expulsion, depending on the severity of the incident, and taking into account any previous disciplinary violations.\*~~
- ~~Any person found responsible for violating the Non-Consensual Sexual Intercourse definition will likely face a recommended sanction of suspension or expulsion (student) or suspension or termination (employee).\*~~
- ~~Any person found responsible for violating the Sexual Exploitation or Sexual Harassment policies will likely receive a recommended sanction ranging from warning to expulsion or termination, depending on the severity of the incident, and taking into account any previous disciplinary violations.\*~~

~~\* The decision-making body reserves the right to broaden or lessen any range of recommended sanctions in the case of serious mitigating circumstances or egregiously offensive behavior. Neither the initial hearing officers nor any appeals body or officer will deviate from the range or recommended sanctions unless compelling justification exists to do so.~~

#### ~~Confidentiality, Privacy and Reporting~~

##### ~~Confidentiality and Reporting of Offenses Under This Policy~~

~~All Southeast Tech employees (faculty, staff, and administrators) are expected to immediately report actual or suspected discrimination or harassment to appropriate officials, though there are some limited exceptions. In order to make informed choices, it is important to be aware of confidentiality~~

and mandatory reporting requirements when consulting campus resources. On campus, some resources may maintain confidentiality—meaning they are not required to report actual or suspected discrimination or harassment to appropriate Institute officials—thereby offering options and advice without any obligation to inform an outside agency or individual unless a victim has requested information to be shared. Other resources exist for a victim to report crimes and policy violations and these resources will take action when an incident is reported to them. The following describes the two reporting options at Southeast Tech:

### **Confidential Reporting**

If a reporting party would like the details of an incident to be kept confidential, the reporting party may speak with on-campus licensed professional counselors.

The following are off-campus resources for confidential reporting:

- Licensed professional counselors
- Local rape crisis counselors
- Domestic violence resources
- Local or state assistance agencies
- Clergy/Chaplains

All of the above individuals/agencies will maintain confidentiality except in extreme cases of immediate threat or danger, or abuse of a minor. Campus counselors are available to help free of charge and can be seen on an emergency basis during normal business hours. These employees will submit timely, anonymous, aggregate statistical information for Clery Act purposes unless they believe it would be harmful to a specific client, patient or parishioner.

### **Formal Reporting Options**

All Southeast Tech employees have a duty to report, unless they fall under the “Confidential Reporting” section above. Reporting parties may want to consider carefully whether they share personally identifiable details with non-confidential employees, as those details must be shared by the employee with the Title IX Coordinator. Employees must share all details of the reports they receive. Generally, climate surveys, classroom writing assignments, human subjects research, or events such as Take Back the Night marches or speak-outs do not require reporting to the Title IX Coordinator by employees; however, remedial actions may result without formal institutional action.

If a victim does not wish for his/her name to be shared, does not wish for an investigation to take place, or does not want formal resolution to be pursued, the victim may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the

~~campus and comply with federal law. In cases indicating pattern, predation, threat, weapons and/or violence, Southeast Tech will likely be unable to honor a request for confidentiality. In cases where the victim requests confidentiality and the circumstances allow the Institute to honor that request, the Institute will offer interim supports and remedies to the victim and the community, but will not otherwise pursue formal action. A reporting party has the right, and can expect, to have reports taken seriously by the Institute when formally reported, and to have those incidents investigated and properly resolved through these procedures.~~

~~Formal reporting still affords privacy to the reporter, and only a small group of officials who need to know will be told. Information will be shared as necessary with investigators, witnesses~~

~~and the responding party. The circle of people with this knowledge will be kept as tight as possible to preserve a reporting party's rights and privacy.~~

~~Reports to the Title IX Coordinator can be made via e-mail, phone or in person at the contact information below:~~

~~Tracy Noldner ([Tracy.Noldner@southeasttech.edu](mailto:Tracy.Noldner@southeasttech.edu))~~

~~Executive Director of Student Affairs & Institutional Effectiveness/Title IX Coordinator (605) 367-7487~~

~~Failure of a non-confidential employee, as described in this section, to report an incident or incidents of sex or gender harassment or discrimination of which they become aware, is a violation of Southeast Tech policy and can be subject to disciplinary action for failure to comply with institute policies.~~

#### ~~Additional Policy Provisions~~

##### ~~a. Attempted Violations~~

~~In most circumstances, Southeast Tech will treat attempts to commit any of the violations listed in the Gender Misconduct definition as if those attempts had been completed.~~

##### ~~b. False Reports~~

~~Southeast Tech will not tolerate intentional false reporting of incidents. It is a violation of the Student Code of Conduct to make an intentionally false report of any policy violation, and it may also violate state criminal statutes and civil defamation laws.~~

##### ~~c. Amnesty for Victims and Witnesses~~

~~The Southeast Tech community encourages the reporting of misconduct and crimes by victims and witnesses. Sometimes, victims and witnesses are hesitant to report to Southeast Tech officials or participate in resolution processes because they fear that they themselves may be accused of~~

~~policy violations, such as underage drinking at the time of the incident. It is in the best interests of this community that as many victims as possible choose to report to institute officials, and that witnesses come forward to share what they know. To encourage reporting, Southeast Tech pursues a policy of offering victims of misconduct and witnesses amnesty from minor policy violations related to the incident.~~

~~Sometimes, students are hesitant to offer assistance to others for fear that they may get themselves in trouble (for example, a student who has been drinking underage might hesitate to help take a sexual misconduct victim to the Campus Security). Southeast Tech pursues a policy of amnesty for students who offer help to others in need.~~

#### ~~d. Parental Notification~~

~~Southeast Tech reserves the right to notify parents/guardians of students regarding any health or safety risk, change in student status or conduct situation, particularly alcohol and other drug violations. Southeast Tech also reserves the right to designate which institute officials have a need to know about individual conduct reports pursuant to the Family Educational Rights and Privacy Act.~~

#### **Investigation and Appeal**

~~For investigation and appeal information, the applicable Southeast Tech Policy/regulations will be followed: AC/STI, AC-R/STI Nondiscrimination/Equal Opportunity; JIAA/STI, JIAA-R/STI Harassment (Student); GBAA/STI, GBAA-R/STI Harassment (Personnel)~~

~~For commonly asked questions regarding Southeast Tech's sexual misconduct policy and procedures, please see Appendix F.~~

### **APPENDIX A:**

#### **OVERVIEW OF POLICY EXPECTATIONS WITH RESPECT TO PHYSICAL SEXUAL MISCONDUCT**

~~The expectations of our community regarding sexual misconduct can be summarized as follows:~~

- ~~— In order for individuals to engage in sexual activity of any type with each other, there must be clear, knowing and voluntary consent prior to and during sexual activity.~~
- ~~— Consent is sexual permission. Consent can be given by word or action, but non-verbal consent is not as clear as talking about what you want sexually and what you do not.~~
- ~~— Consent to some form of sexual activity cannot be automatically taken as consent to any other~~

~~form of sexual activity.~~

- ~~— Previous consent does not imply consent to sexual activity in the future.~~
- ~~— Silence or passivity—without actions demonstrating permission—cannot be assumed to show consent.~~
- ~~— Consent, once given, can be withdrawn at any time. There must be a clear indication that consent is being withdrawn.~~

~~Additionally, there is a difference between seduction and coercion. Coercing someone into sexual activity violates this policy in the same way as physical forcing someone into sex. Coercion happens when someone is pressured unreasonably for sex.~~

~~Because alcohol or other drug use can place the capacity to consent in question, sober sex is less likely to raise such questions. When alcohol or other drugs are being used, a person will be considered unable to give valid consent if they cannot fully understand the details of a sexual interaction (who, what, when, where, why, or how) because they lack the capacity to reasonably understand the situation. Individuals who consent to sex must be able to understand what they are doing. Under the policy, “No” always means “No”, and “Yes” may~~

~~not always mean “Yes”. Anything but a clear, knowing and voluntary consent to any sexual activity is the equivalent to a “no”.~~

#### **APPENDIX B:**

##### **EXAMPLES OF POSSIBLE SEXUAL HARASSMENT**

- ~~● A professor insists that a student have sex with him/her in exchange for a good grade. This is harassment regardless of whether the student consents to the request.~~
- ~~● A student repeatedly sends sexually oriented jokes around on an e-mail list s/he created, even when asked to stop, causing one recipient to avoid the sender on campus.~~
- ~~● Explicit sexual pictures are displayed in a professor’s office or on the exterior of a student housing apartment door.~~
- ~~● Two staff members frequently ‘rate’ several employees’ bodies and sex appeal, commenting suggestively about their clothing and appearance.~~
- ~~● A professor engages students in her class in discussions about their past sexual experiences, yet the conversation is not in any way relevant to the subject matter of the class. She probes for explicit details, and demands the students answer her, though they are clearly uncomfortable and hesitant.~~
- ~~● An ex-girlfriend widely spreads false stories about her sex life with her former boyfriend to the clear discomfort of the boyfriend, turning him into a social pariah on~~

campus.

- ~~A student grabbed another student by the hair, then grabbed her breast and put his mouth on it. While this is sexual harassment, it is also a form of sexual violence.~~

#### **APPENDIX C: EXAMPLES OF SEXUAL EXPLOITATION**

- ~~Invasion of sexual privacy;~~
- ~~Prostituting another person;~~
- ~~Non-consensual digital, video or audio recording of nudity or sexual activity;~~
- ~~Engaging in voyeurism;~~
- ~~Going beyond the boundaries of consent (such as letting your friend hide in the closet to watch you having consensual sex);~~
- ~~Knowingly exposing someone to or transmitting an STI, STD, or HIV to another person;~~
- ~~Intentionally or recklessly exposing one's genitals in non-consensual circumstances; inducing another to expose their genitals;~~
- ~~Sexually based stalking and/or bullying may also be forms of sexual exploitation~~

#### **APPENDIX D: EXAMPLES OF NON-CONSENSUAL SEXUAL CONTACT AND**

##### **NON-CONSENSUAL SEXUAL INTERCOURSE**

1. ~~Amanda and Bill meet at a party. They spend the evening dancing and getting to know each other. Bill convinces Amanda to go to his apartment. From 11:00pm until 3:00am, Bill uses every line he can think of to convince Amanda to have sex with him, but she adamantly refuses. He keeps at her, and begins to question her religious convictions, and accuses her of being "a prude". Finally, it seems to Bill that her resolve is weakening, and he convinces her to give him a "hand job" (hand to genital contact). Amanda would never had done it but for Bill's incessant advances. He feels that he successfully seduced her, and that she wanted to do it all along, but was playing shy and hard to get. Why else would she have come up to his room alone after the party? If she really didn't want it, she could have left. **Bill is responsible for violating Southeast Tech's Non-Consensual Sexual Contact definition. It is likely that campus decision-makers would find that the degree and duration of the pressure Bill applied to Amanda are unreasonable. Bill coerced Amanda into performing unwanted sexual touching upon him. Where sexual activity is coerced, it is forced. Consent is not valid when forced. Sex without consent is sexual misconduct.**~~

2. Tom is a second-year student. Beth is a first-year student. Tom comes to Beth's on-campus apartment with some mutual friends to watch a movie. Tom and Beth, who have never met before, are attracted to each other. After the movie, everyone leaves, and Tom and Beth are alone. They hit it off, and are soon becoming more intimate. They start to make out. Tom verbally expresses his desire to have sex with Beth. Beth, who was abused by a babysitter when she was five, and has not had any sexual relations since, is shocked at how quickly things are progressing. As Tom takes her by the wrist over to the bed, lays her down, undresses her, and begins to have intercourse with her, Beth has a severe flashback to her childhood trauma. She wants to tell Tom to stop, but cannot. Beth is stiff and unresponsive during the intercourse. **Is this a policy violation? Tom would be held responsible in this scenario for Non-Consensual Sexual Intercourse. It is the duty of the sexual initiator, Tom, to make sure that he has mutually understandable consent to engage in sex. Though consent need not be verbal, it is the clearest form of consent. Here, Tom had no verbal or nonverbal mutually understandable indication from Beth that she consented to sexual intercourse. Of course, whenever possible, it is important to be as clear as possible as to whether or not sexual contact is desired, and to be aware that for psychological reasons, or because of alcohol or drug use, one's partner may not be in a position to provide as clear an indication as the policy requires. As the policy makes clear, consent must be actively, not passively, given.**

3. Kevin and John are at a party. Kevin is not sure how much John has been drinking, but he is pretty sure it's a lot. After the party, he walks John to his room, and John comes on to Kevin, initiating sexual activity. Kevin asks John if he is really up to this, and John says yes. Clothes go flying, and they end up on John's bed. Suddenly, John runs for the bathroom. When he returns, his face is pale, and Kevin thinks he may have thrown up. John gets back into bed, and they begin to have sexual intercourse. Kevin is having a good time, though he can't help but notice that John is pretty groggy and passive, and he thinks John may have even passed out briefly during the sex, but he does not let that stop him. When Kevin runs into John the next day, he thanks him for the wild night. John remembers nothing, and decides to make a report to the VP of Student Services. **This is a violation of the Non-Consensual Sexual Intercourse definition.**

~~Kevin should have known that John was incapable of making a rational, reasonable decision about sex. Even if John seemed to consent, Kevin was well aware that John had consumed a large amount of alcohol, and Kevin thought John was physically ill, and that he passed out during sex. Kevin should be held accountable for taking advantage of John in his condition. This is not the level of respectful conduct Southeast Tech expects.~~

**APPENDIX E:  
EXAMPLES OF STALKING**

- ~~1. A student repeatedly shows up at another student's on-campus residence, always notifying her roommates that they are there to see the resident. The student informs housing staff that this visitor wasn't invited and continuously attempts to see them, even so far as waiting for them outside of classes and showing up to their on-campus work study and requesting they go out on a date together. **This is an example of Stalking 1.**~~
- ~~2. A student working as an on-campus tutor received flowers and gifts delivered to the Success Lab. After learning the gifts were from a student s/he recently tutored, the student thanked the student and stated that it was not necessary and would appreciate the gift deliveries to stop. The student then started leaving notes of love and gratitude on the student's car, both on-campus and at home. Asked again to stop, the student stated by email "You can ask me to stop, but I'm not giving up. We are meant to be together, and I'll do anything necessary to make you have the feelings for me that I have for you." When the tutor did not respond, the student emailed again, "You cannot escape me. I will track you down to the ends of the earth. We are meant to be together". **This is an example of Stalking 2.**~~

**APPENDIX F:  
QUESTIONS AND ANSWERS**

~~Here are some of the most commonly asked questions regarding Southeast Tech's misconduct policy and procedures.~~

~~*Does information about a report remain private?*~~

~~The privacy of all parties to a report of sexual misconduct must be respected, except insofar as it interferes with Southeast Tech's obligation to fully investigate allegations of sexual misconduct. Where privacy is not strictly kept, it will still be tightly controlled on a need to-~~

~~know basis. Southeast Tech will not disseminate information and/or written materials to persons not involved in the resolution process without consent of both parties. Witnesses are also required to maintain the privacy of information shared with them during interviews and/or hearings. Violations of the privacy of the reporting party or the responding party may lead to conduct action by the institute, though both parties are allowed to share their perspectives and experiences. All parties, including witnesses, involved in an allegation are strongly encouraged to maintain the privacy of information and/or written materials.~~

~~In all resolutions of sexual misconduct, reporting and responding parties will be informed of the outcome. In some instances, the administration also may choose to make a brief public announcement of the nature of the violation and the action taken, without using the name or identifiable information of the alleged victim. Certain administrators are informed of the outcome within the bounds of student privacy. If there is a report of an act of alleged sexual misconduct to a conduct officer of the institute and there is evidence that a felony has occurred, local police will be notified. This does not mean that charges will be automatically filed or that a victim must speak with the police, but Southeast Tech is legally required to notify law enforcement authorities. Southeast Tech also must statistically report the occurrence on campus of major violent crimes, including certain sex offenses, in an "Annual Security Report" of campus crime statistics. This statistical report does not include personally identifiable information.~~

~~*Will my parents be told?*~~

~~Southeast Tech will not inform your parents unless you are under the age of 18, in the case of a life threatening situation, or if explicitly requested to do so by the reporting or responding party. Whether you are the reporting party or the responding party, Southeast Tech's primary relationship is to the student and not to the parent. However, in the event of major medical, disciplinary, or academic jeopardy, students are strongly encouraged to inform their parents.~~

~~*Will the responding party know my identity?*~~

~~Yes, if Southeast Tech determines there is reasonable cause to believe a violation has occurred and investigates the matter. The responding party has a right to know the identity of the reporting party. If there is a hearing, Southeast Tech does provide~~

~~options for questioning without confrontation, including closed circuit testimony, Skype, using a room divider or using separate hearing rooms.~~

~~*Do I have to name the responding party?*~~

Yes, if you want formal disciplinary action to be taken against the responding party. You can report the incident without the identity of the responding party, but doing so may limit the institute's ability to respond comprehensively.

*What do I do if I am accused of sexual misconduct?*

DO NOT contact the reporting party. You may immediately want to contact someone who can act as your advocate; anyone may serve as your advocate. You may also contact the Vice President of Student Affairs, who can explain the institute's procedures for addressing sexual misconduct reports. You may also want to talk to a confidential counselor or seek other community assistance. See below regarding legal representation.

*Will I (as a victim) have to pay for counseling/medical care?*

If a physician, hospital, or clinic examines the victim of an alleged rape or sexual offense the examination shall be provided without cost to the victim. Southeast Tech's on-campus counselors provide their services free of charge.

*What about legal advice?*

Victims of criminal sexual assault need not retain a private attorney to pursue criminal prosecution because representation will be handled by the District Attorney's office. You may want to retain an attorney if you are considering filing a civil action or are the responding party. The responding party may retain counsel at their own expense if they determine that they need legal advice about criminal prosecution and/or the campus conduct proceeding. Both the responding party and the reporting party may also use an attorney as their advocate during the campus' resolution process. Attorneys are subject to the same restrictions as other advocates in the process described in the grievance procedures.

*What about changing on-campus apartments?*

If you live in Southeast Tech's on-campus apartments, you may request a room change if you want to move. Room changes under these circumstances are considered emergencies. It is typically institutional policy that in emergency room changes, the student is moved to the first available suitable room. If the responding party also lives in the on-campus apartments and you prefer that s/he be moved to another apartment, that request will be evaluated by the Title IX Coordinator to determine if it can be honored. Other assistance and modifications available to you might include:

- Assistance from Southeast Tech Housing Staff in completing a room relocation;
- Arranging to dissolve a housing contract and pro-rating a refund
- Help with finding an off-campus residential alternative
- Assistance with or rescheduling an academic assignment (paper, exams, etc.) or otherwise implementing academic assistance;
- Taking an incomplete in a class; 17

- Assistance with transferring class sections;
- Temporary withdrawal;
- Assistance with alternative course completion options;
- Escorts to and from campus locations;
- On or off campus counseling assistance;
- Transportation assistance or support;
- Other accommodations for safety as necessary.

*What should I do about preserving evidence of a sexual assault?*

Police are in the best position to secure evidence of a crime. Physical evidence of a criminal sexual assault must be collected from the alleged victim's person within 120 hours, though evidence can often be obtained from towels, sheets, clothes, etc. for much longer periods of time. If you believe you have been a victim of a criminal sexual assault, you should go to the nearest Hospital Emergency Room (Sanford USD Medical Center, located at 1305 W 18th St.), before washing yourself or your clothing. The Sexual Assault Nurse Examiner (a specially trained nurse) at the hospital is usually on call 24 hours a day, 7 days a week (call the Emergency Room at 605-333-6688 if you first want to speak to the nurse; ER will refer you). If a victim goes to the hospital, local police will be called, but s/he is not obligated to talk to the police or pursue prosecution. Having the evidence collected in this manner will help keep all options available to a victim, but will not oblige him or her to any course of action. Collecting evidence can assist the authorities in pursuing criminal charges, should the victim decide later to exercise it.

For the Victim: the hospital staff will collect evidence, check for injuries, address pregnancy concerns and address the possibility of exposure to sexually transmitted infections. If you have changed clothing since the assault, bring the clothing you had on at the time of the assault with you in a clean, sanitary container such as a clean paper grocery bag or wrapped in a clean sheet (plastic containers do not breathe, and may render evidence useless). If you have not changed clothes, bring a change of clothes with you to the hospital, if possible, as they will likely keep the clothes you are wearing as evidence. You can take a support person with you to the hospital, and they can accompany you through the exam, if you want. Do not disturb the crime scene—leave all sheets, towels, etc. that may bear evidence for the police to collect.

*Will a victim be sanctioned when reporting a sexual misconduct policy violation if he/she has illegally used drugs or alcohol?*

No. The seriousness of sexual misconduct is a major concern and Southeast Tech does not want any of the circumstances (e.g. drug or alcohol use) to inhibit the reporting of sexual misconduct. The institute provides amnesty from any consequences for minor

policy violations that occur during or come to light as the result of a victim's report of sexual misconduct.

*Will the use of drugs or alcohol affect the outcome of a sexual misconduct conduct resolution?*

The use of alcohol and/or drugs by either party will not diminish the responding party's responsibility. On the other hand, alcohol and/or drug use is likely to affect the reporting party's memory and, therefore, may affect the resolution of the reported misconduct. A reporting party must either remember the alleged incident or have sufficient circumstantial evidence, physical evidence and/or witnesses to prove that policy was violated. If the reporting party does not remember the circumstances of the alleged incident, it may not be possible to impose sanctions on the responding party without further corroborating information. Use of alcohol and/or other drugs will never excuse a violation by a responding party.

*Will either party's prior use of drugs and/or alcohol be a factor when reporting sexual misconduct?*

Not unless there is compelling reason to believe that prior use or abuse is relevant to the present matter.

*What should I do if I am uncertain about what happened?*

If you believe that you have experienced sexual misconduct, but are unsure of whether it was a violation or the institute's sexual misconduct policy, you should contact Southeast Tech's Title IX Coordinator (not confidential) or one of Southeast Tech's on-campus counselors.

#### **APPENDIX G: RISK REDUCTION TIPS**

Risk reduction tips can often take a victim-blaming tone, even unintentionally. Only those who commit sexual violence are responsible for those actions. We offer the tips below with no intention to victim-blame, with recognition that these suggestions may nevertheless help you to reduce your risk of experiencing a non-consensual sexual act. Below, suggestions to avoid committing a non-consensual sexual act are also offered:

- If you have limits, make them known as early as possible.
- Tell a sexual aggressor "NO" clearly and firmly.
- Try to remove yourself from the physical presence of a sexual aggressor.
- Find someone nearby and ask for help.
- Take affirmative responsibility for your alcohol intake/drug use and acknowledge that alcohol/drugs lower your sexual inhibitions and may make you vulnerable to someone who

~~views a drunk or high person as a sexual opportunity.~~

- ~~Take care of your friends and ask that they take care of you. A real friend will challenge you if you are about to make a mistake. Respect them when they do.~~

If you find yourself in the position of being the initiator of sexual behavior, you owe sexual respect to your potential partner. These suggestions may help you to reduce your risk for being accused of sexual misconduct.

- ~~Clearly communicate your intentions to your sexual partner and give them a chance to clearly relate their intentions to you.~~
- ~~Understand and respect personal boundaries.~~
- ~~DON'T MAKE ASSUMPTIONS about consent; about someone's sexual availability; about whether they are attracted to you; about how far you can go or about whether they are physically and/or mentally able to consent. Your partner's consent should be affirmative and continuous. If there are any questions or ambiguity then you DO NOT have consent.~~
- ~~Mixed messages from your partner are a clear indication that you should stop, defuse any sexual tension and communicate better. You may be misreading them. They may not have figured out how far they want to go with you yet. You must respect the timeline for sexual behaviors with which they are comfortable.~~
- ~~Don't take advantage of someone's drunkenness or altered state, even if they willingly consumed alcohol or substances.~~
- ~~Realize that your potential partner could feel intimidated or coerced by you. You may have a power advantage simply because of your gender or physical presence. Don't abuse that power.~~
- ~~Understand that consent to some form of sexual behavior does not automatically imply consent to any other forms of sexual behavior.~~
- ~~Silence, passivity, or non-responsiveness cannot be interpreted as an indication of consent. Read your potential partner carefully, paying attention to verbal and nonverbal communication and body language.~~

Regulation ~~Board Action~~  
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