

MANUAL OF POLICY

Title	Sex Discrimination, Sexual Harassment, Domestic Violence, Dating Violence, Stalking and Retaliation Prohibited	4216
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I. Purpose

The purpose of this policy is to ensure compliance with the anti-discrimination provisions of Title IX of the Education Amendments Act of 1972 and its implementing regulations (hereinafter “Title IX”) and to ensure compliance with Subchapters E-2 and E-3 of Chapter 51 of the Texas Education Code (hereinafter “Chapter 51”). The purpose of this policy is also to adopt and publish grievance and disciplinary procedures to ensure a prompt, fair, and equitable resolution of complaints arising under this policy for all parties involved.

II. Definitions

As used herein, the following terms shall have the meaning assigned:

“Complainant” means a student or employee who is alleged to be the victim of conduct that could constitute sexual harassment, sexual assault, dating violence, domestic violence, stalking, or retaliation for engaging in a protected activity.

“Confidential Employee/Student Advisor” means an employee or a student designated by the College as being a confidential resource to whom reports of sex discrimination, sexual harassment, sexual assault, dating violence, domestic violence, stalking, or retaliation may be made and who are not obligated to report complaints of such incidents to the Title IX Coordinator or a Deputy Title IX Coordinator, but are required to communicate details of such incidents in a manner that does not reveal the identity of the alleged victim.

“Formal Complaint” means a document filed by a Complainant or signed by the Title IX Coordinator or a Deputy Title IX Coordinator alleging sexual harassment, sexual assault, dating violence, domestic violence or stalking against a Respondent and requesting that the College investigate the allegations in the complaint. A document filed by the complainant as a formal complaint includes an electronic submission (such as by electronic mail or through an online portal provided for this purpose by the College) that contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint. At the time of filing a formal complaint, a Complainant must be participating in or attempting to participate in the education program or an activity of the College. When the Title IX Coordinator or a Deputy Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator or a Deputy Title IX Coordinator is not a complainant or otherwise a party in the process.

“Mandatory/Responsible Reporter” means an employee of the College who is obligated by policy to share knowledge, notice, and/or reports of conduct constituting sex discrimination, sexual harassment, sexual assault, domestic violence, dating violence and/or retaliation with the Title IX Coordinator or the Deputy Title IX Coordinator.

All employees of the College are mandatory reporters except employees designated as being Confidential.

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“Protected Activity” means exercising a right under this policy such as (1) making a report or filing a formal complaint; or (2) cooperating with or participating in an investigation; or (3) participating in a disciplinary process or a judicial proceeding relating to a Report or a Formal Complaint made by a student or employee under this policy; or (4) opposing, in good faith, any conduct that would be in violation of this policy. This does not apply to a student or employee who participates in an investigation, disciplinary process, or judicial proceeding relating to a Report or Formal Complaint alleging that the student or employee is the Respondent.

“Report” means a document (i) filed by a witness to an alleged incident of sexual harassment, sexual assault, dating violence, domestic violence, stalking, alleging sexual harassment, sexual assault, dating violence or stalking; or (ii) filed with a Confidential Employee or a Student Advocate by a complainant who desires to withhold disclosure of his or her identity and only confidentially discuss the alleged sexual harassment, sexual assault, dating violence or stalking in confidence without the complaint being investigated by the College.

“Respondent” means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment, sexual assault, dating violence, domestic violence, stalking, or retaliation.

“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 the recipient's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the recipient's educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The recipient must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the recipient to provide the supportive measures. The Title IX Coordinator or a Deputy Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

“Title IX Coordinator” is at least one official designated by the College to ensure compliance with Title IX, the College's Title IX program, and Chapter 51. References to the Title IX Coordinator throughout this policy may also encompass a designee or Deputy Title IX Coordinator of the Coordinator for specific tasks.

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III. Title IX Prohibits Discrimination on the Basis of Sex

South Texas College (hereinafter the “College”) does not discriminate or tolerate discrimination against any employee, applicant for employment, student, or applicant for admission on the basis of sex in the education program or activity that it operates, and it is prohibited by Title IX and its implementing regulations from discriminating in such a manner. This non-discrimination requirement in its education program or activity extends to student recruitment and admission and to employment of personnel. Any inquiries from students (including parents, guardians, or conservators of minor students), employees, or the general public about the application of Title IX and its implementing regulations to the College may be referred to the College’s Title IX Coordinator or Deputy Title IX Coordinator, to the Assistant Secretary of the U.S. Department of Education, or to both. A violation of this policy by any person is subject to disciplinary action up to and including expulsion from the College or termination from employment.

IV. Title IX Prohibits Sex Discrimination / Sexual Harassment

A. Sex Discrimination

Under Title IX, sex discrimination involves exclusion from or different treatment on the basis of sex in such College activities as recruitment, admission, financial aid, work-study, athletics, counseling, or employment. Sex discrimination may also take the form of sexual harassment which can encompass sexual assault, dating violence, domestic violence, or stalking. South Texas College is committed to eradicating all forms of sex-based discrimination including sexual harassment and prohibits its employees and students from engaging in such conduct. Sexual Harassment can occur in any sex or gender configuration without regard to gender identity, gender expression or sexual orientation and may include off-campus or online conduct. Any person who violates this policy is subject to disciplinary action up to and including expulsion from the College or termination from employment.

B. Sexual Harassment

Under Title IX, sexual harassment (hereinafter “Sexual Harassment”) is considered a form of sex-based discrimination. The Title IX implementing regulations define sexual harassment as conduct on the basis of sex that satisfies one or more of the following:

1. **Quid Pro Quo harassment.** This occurs when an employee of the College conditions the provision of an aid, benefit, or service of the College on an individual's participation in unwelcome sexual conduct;
2. **Unwelcome conduct.** This is conduct that a reasonable person would find to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the College’s education program or activity; or

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3. **“Sexual assault”** as defined in 20 U.S.C. 1092(f)(6)(A)(v), **“dating violence”** as defined in 34 U.S.C. 12291(a)(10), **“domestic violence”** as defined in 34 U.S.C. 12291(a)(8), or **“stalking”** as defined in 34 U.S.C. 12291(a)(30).

V. Sexual Harassment and other Prohibited Behavior under Chapter 51

Subchapters E-2 and E-3 of Chapter 51, Texas Education Code (hereinafter “Chapter 51”) require that the College adopt a policy prohibiting sexual harassment, sexual assault, dating violence, and stalking that is applicable to each student enrolled at and each employee of the College.

A. Sexual Harassment

Chapter 51 defines sexual harassment, as follows:

1. **Sexual Harassment** - means unwelcome, sex-based verbal or physical conduct that:
 - a) In the employment context, unreasonably interferes with a person's work performance or creates an intimidating, hostile, or offensive work environment; or
 - b) In the education context, is sufficiently severe, persistent, or pervasive that the conduct interferes with a student's ability to participate in or benefit from educational programs or activities at a postsecondary educational institution.

B. Other Prohibited Behavior under Chapter 51

Chapter 51 also prohibits the following behavior (hereinafter “Prohibited Behavior”):

1. **Sexual Assault** - means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.
2. **Dating Violence** - means physical violence or verbal abuse committed by a person.
 - a. against a victim with whom the person is or has been in a social relationship of a romantic or intimate nature;
 - b. is intended to result in physical harm, bodily injury, assault, mental anguish, mental pain, emotional distress, or sexual assault or that is a threat that reasonably places the victim in fear of imminent physical

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- harm, bodily injury, assault, or sexual assault; and
- c. where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - i. The length of the relationship.
 - ii. The type of relationship.
 - ii. The frequency of interaction between the persons involved in the relationship.
- 3. **Stalking** - means engaging in any act or course of conduct that is directed at a specific person that would cause a reasonable person to:
 - a. fear for his or her safety or the safety of others; or
 - b. suffer substantial emotional distress.

VI. **Sexual Violence and Consent, Coercion, & Incapacitation**

Sexual violence is a form of sexual harassment or sexual assault that includes physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent.

Consent

Consent is knowing, voluntary, and clear permission, by word or action, to engage in mutually agreed upon sexual activity. It is the responsibility of each party to make certain that the other has consented before engaging in the activity. Consent can be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated and the activity should cease immediately or within a reasonable time. Resistance to engaging in sexual activity is a clear demonstration of non-consent as is knowing that the other person is incapacitated and unable to provide consent.

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 dating relationship is not sufficient to constitute consent. In Texas, the age of consent to engage in sexual activity is 17 years of age. Sexual activity with someone without clear consent constitutes a violation of this policy.

Incapacitation

Incapacitation means a mental state where a person lacks the capacity to give knowing/informed consent. Incapacitation may be due to a person's use of drugs or alcohol; due to an intellectual, mental or physical disability; due to a person's lack of consciousness, or due to a person being underage. A person who is under seventeen (17) years of age is legally incapable of consenting to sexual activity. A

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person who engages in sexual activity with someone whom the individual knows, or reasonably should know, is incapable of knowingly consenting to the sexual activity violates this policy. Intoxication of the individual alleged to have violated this policy is not a defense.

VII. Consensual Romantic or Sexual Relationships Prohibited

The College prohibits employees from entering consensual romantic or sexual relationships with each other if one is the direct or indirect supervisor of the other. The College prohibits faculty members and students from entering consensual romantic or sexual relationships with each other if one is the instructor of the other.

Employees in a supervisory subordinate relationship are prohibited from explicitly or implicitly suggesting or recommending or agreeing that either employee transfer or be transferred to another position or leave employment with the intention of circumventing this policy.

Individuals in an instructor-student relationship are prohibited from explicitly or implicitly suggesting or recommending or agreeing that the student enrolled in the faculty member's class drop the class or withdraw from enrollment in the College or that the faculty member withdraw from the class or from employment with the College with the intention of circumventing this policy.

The prohibition on consensual relationships shall apply for the duration of the supervisor-subordinate or instructor-student relationship and for a period of one calendar year after such relationship has ended.

VIII. Victim's Rights Statement

All victims have a right to a prompt and equitable resolution of reports of violations of this policy. South Texas College encourages victims of sexual assault, dating violence, domestic violence or stalking, to go to a hospital for treatment and preservation of evidence as soon as practicable after the incident.

IX. False Complaints

Any person who knowingly files a false complaint alleging a violation of this policy or with the intent to harm or deceive is subject to disciplinary action up to and including dismissal or expulsion from the College. Pursuant to Texas law, an employee who commits such an offense must be terminated from employment with the College.

X. Protocol for Reporting Incidents of Sexual Harassment and Prohibited Behavior

A. Formal Complaints

Formal complaints or reports concerning alleged incidents of sexual harassment,

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sexual assault, dating violence, or stalking shall be made in accordance with the protocols set forth herein. A formal complaint filed with the Title IX Coordinator, or the Deputy Title IX Coordinator, a Mandatory Reporter or with a Responsible Employee, or a report filed with a designated Confidential Employee or with a designated Student Advocate, may be filed in person, by mail, or by electronic mail, by using the contact information listed for each in this policy.

A formal complaint filed by a complainant means a written document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the College) that contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint.

B. Designation of Title IX Coordinator

The following employee serves as the Title IX Coordinator:

Todd C. Nelson
Contracts and Regulatory Resources Officer
Title IX Coordinator
3201 W. Pecan Blvd. N 150
McAllen, TX 78501
(956) 872-4664
TitleIX@southtexascollege.edu

The Title IX Coordinator has the primary responsibility for coordinating College's efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remedy, and prevent discrimination, harassment, and retaliation prohibited under this policy. The Title IX Coordinator acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator oversees the grievance process and all resolutions of complaints under this policy and these procedures.

C. Mandatory Reporting of Sexual Harassment or of Prohibited Behavior

All employees of South Texas College, unless designated a Confidential Employee, are considered Mandatory Reporters under Title IX and Chapter 51. Mandatory Reporters who, in the course and scope of employment, witnesses or receives information regarding the occurrence of an incident that the employee reasonably believes constitutes sexual harassment, sexual assault, dating violence, or stalking and is alleged to have been committed by or against a person who was a student enrolled at or an employee of the College at the time of the incident shall promptly report the incident to the Title IX Coordinator or Deputy Title IX Coordinator. The report must include all information concerning the incident known to the reporting person that is relevant to the investigation and, if applicable, redress of the incident, including

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whether an alleged victim has expressed a desire for confidentiality in reporting the incident for all actual or suspected instances of sexual harassment. The Mandatory Reporter must promptly share with a Title IX Coordinator or Deputy Title IX Coordinator all known details of a report made to the Mandatory Reporter in the course of their employment. Mandatory Reporters are required to report an incident regardless of the when or where the incident occurred.

When a mandatory reporter receives a report of an incident, they must:

1. Advise the individual of the employee's obligation to report any information the individual reveals to the Title IX coordinator or Deputy Title IX Coordinator;
2. Explain to the individual of their option to ask that the institution consider maintaining the confidentiality of that information, but that the institution may not be able to guarantee confidentiality, and
3. Offer the individual the option to instead share this information with counselor, ombuds, clergy, victim's advocacy groups, medical providers, attorneys, or other resources who may provide higher levels of confidentiality.

D. Failure to Report or False Report; Offenses

A Mandatory Reporter person who is required to make a report commits an offense if the person knowingly fails to make the report; or with the intent to harm or deceive, knowingly makes a report that is false. An offense is a Class B misdemeanor, except that the offense is a Class A misdemeanor if it is shown on the trial of the offense that the actor intended to conceal the incident that the actor was required to report. If it is determined, in accordance with the College's disciplinary procedure, that an employee committed an offense for failing to make a report or for making a false report, the employee's employment with the College shall be terminated.

E. Exceptions to Mandatory Reporting – Designation of Confidential Employees

In an effort to encourage employees and students to report violations of this policy and to receive confidential assistance and supportive services without having to disclose their identity, the College designates the following employees as "Confidential Employees":

1. Counselor
2. Ombuds

Any student or employee who is a victim of, or a witness to an alleged incident of sexual harassment, sexual assault, dating violence, or stalking who desires to report the alleged incident but also desires to preserve the confidentiality of his or her

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identity and of the alleged incident and not have the incident investigated by the Title IX Coordinator or a Deputy Title IX Coordinator should report the alleged incident to a Confidential Employee. A designated Confidential Employee may not disclose any communication made by a student unless the student consents to the disclosure or the employee is required to make the disclosure under state or federal law. Reports made to a Confidential Employee shall be forwarded to the Title IX Coordinator or a Deputy Title IX Coordinator in a manner that does not disclose the reporting student's identity and only discloses information which the College needs to collect on the incident for reporting and statistical purposes.

A "Confidential Employee" is required to inform reporting employees and students that:

- The confidentiality privilege belongs to the student and not to the Confidential Employee; therefore, only the student may waive the privilege.
- The confidentiality privilege is not absolute, it applies only with respect to making reports to the Title IX Coordinator or a Deputy Title IX Coordinator;
- In a case involving a minor student, the Confidential Employee may have a legal obligation to break the privilege and report sexual (or other abuse) of the minor to law enforcement authorities and/or to child protective services.
- In a criminal investigation arising from a complaint of sexual assault, domestic violence, dating violence, or stalking, a Confidential Employee may have a legal obligation to break the confidentiality and report a criminal act or testify in a civil or criminal proceeding if compelled to do so by a court or other tribunal of competent jurisdiction.
- Discussing any matter concerning sexual harassment or prohibited behavior with a "confidential employee" may delay an investigation into the matter but will not preclude a student or employee from, subsequently, filing a formal complaint with a mandatory reporting employee or the Title IX Coordinator or a Deputy Title IX Coordinator.
- The employee or student has a right to file a formal complaint with the Title IX Coordinator or a Deputy Title IX Coordinator;
- The employee or student has a right to file a criminal complaint with campus or local law enforcement authorities,
- The College has available campus resources for counseling, medical, and academic support,
- Confidential employees are available to assist in filing complaints, and
- Anti-retaliation and safety protections are in place.

F. Additional Reporting

All members of the South Texas College community, including students, employees,

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applicants, vendors, guests and visitors are encouraged to report incidents of prohibited conduct, online, in person, by mail, by telephone, or by electronic mail, or by any other means that results in receipt of the person's verbal or written report. Such a report may be made at any time (24/7) and may be made anonymously. There is no time limit to file reports but the actions the College can take to resolve complaints may be limited if significant time has passed.

Online reports can be made at: <https://www.southtexascollege.edu/report/index.html>

G. Actual Knowledge by College Required for Title IX and Chapter 51 Cases

Actual knowledge to the College means a report made to an "Official with Authority" to institute corrective measures on behalf of the College. The Title IX Coordinator is an official with such authority. Other Officials with Authority to institute corrective measures include: College President, Vice Presidents, Deputy Title IX Coordinator, Director of Human Resources or Dean of Student Affairs.

H. Confidentiality

In addition to expectation of confidentiality as explained in section B above, pursuant to Texas state law, the identity of an alleged victim, a reporting party, or an alleged Respondent, to an incident of sexual harassment, sexual assault, dating violence or stalking, is confidential and is not subject to disclosure unless waived in writing by the person. The identity may be disclosed only as required by law, as permitted by the Family Educational Rights and Privacy Act or to carry out the purposes of Title IX or relevant state laws including: alleged perpetrator(s) if required by law, persons tasked by the College to conduct an investigation, hearing or other proceeding arising under this policy; law enforcement officers who must conduct a criminal investigation of the report; or a health care provider in an emergency situation, as determined by the College.

A disclosure under this section is not a voluntary disclosure for purposes of Section 552.007, Government Code. Information regarding an incident of sexual harassment, sexual assault, dating violence, or stalking disclosed to a health care provider or other medical provider employed by the College is confidential and may be shared by the medical provider only with the victim's consent. However, the medical provider must provide aggregate data or other nonidentifying information regarding those incidents to the Title IX Coordinator.

I. Reporting to Law Enforcement

Nothing in this policy is intended to limit the right of any person to file a criminal complaint with the law enforcement authorities in conjunction with a complaint under this policy. Complaints may also be filed with other local law enforcement authorities or with South Texas College's Department of Public Safety at (956) 872-4444 at or call

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Civil Rights Division
101 E. 15th Street, Room 144-T
Austin, TX 78778-0001
Telephone: (512) 463-2642

Online information available at: <https://www.twc.texas.gov/jobseekers/how-submit-employment-discrimination-complaint>

XI. College's Response to Sexual Harassment and Prohibited Behavior

A. General Response

If the College has actual knowledge of Sexual Harassment or of Prohibited Behavior-without a Formal Complaint, it will respond promptly in a manner that is not deliberately indifferent. In its response, the College will treat Complainants and Respondents equitably by offering Supportive Measures, as defined herein, to a Complainant, and by following a grievance process that complies with §106.45 of the Title IX implementing regulations before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a Respondent. In instances of actual knowledge of sexual harassment or of prohibited behavior, the Title IX Coordinator will promptly contact the Complainant to: (1) discuss the availability of Supportive Measures, (2) consider the Complainant's wishes with respect to Supportive Measures, (3) inform the Complainant of the availability of Supportive Measures with or without the filing of a Formal Complaint, and (4) explain to the Complainant the process for filing a Formal Complaint. The Department may not deem a recipient to have satisfied the recipient's duty to not be deliberately indifferent under this part based on the recipient's restriction of rights protected under the U.S. Constitution, including the First Amendment, Fifth Amendment, and Fourteenth Amendment.

B. Response to a Formal Complaint.

Upon receipt of a Formal Complaint, the Title IX Coordinator or designee will follow a grievance resolution process that complies with §106.45 of the Title IX implementing regulations by initiating at least one of the following three responses:

1. Offering supportive measures;
2. An informal resolution;
3. A Grievance Resolution Process including an investigation and a live hearing.

C. Grievance Resolution Process

1. Initial Assessment of Formal Complaints

Any person may report Sexual Harassment or Prohibited Behavior (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute Sexual Harassment or Prohibited Behavior).

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Formal Complaints alleging Sexual Harassment or Prohibited Behavior shall be submitted to the Title IX Coordinator or Deputy Title IX Coordinator. The Title IX Coordinator or a Deputy Title IX Coordinator shall evaluate each Formal Complaint to determine if the complaint alleges Sexual Harassment or Prohibited Behavior.

Formal Complaints alleging Sexual Harassment or Prohibited Behavior will be coordinated by the Title IX Coordinator or a Deputy Title IX Coordinator. Formal Complaints will be investigated by investigators, resolved through Informal Resolution by persons designated to facilitate an informal resolution process, if agreed to by all parties, in writing, or resolved by decision-makers after a Live Hearing incorporating examination of witnesses and cross-examination of the parties by the parties' respective Advisors. In addition to the Title IX Coordinator or a Deputy Title IX Coordinator, investigators, decision-makers, and persons designated to facilitate an informal resolution process as required by §106.45(iii) of the Title IX implementing regulations to include training on the definition of Sexual Harassment, the scope of the College's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

2. Formal Complaint Signed by Complainant or Title IX Coordinator Required

In cases involving allegations of Sexual Harassment or Prohibited Behavior, a Formal Complaint signed by the Complainant is required for an Informal Resolution or to begin an investigation leading to a Live Hearing. A Complainant may withdraw a complaint at any time.

In Title IX cases where the College receives an anonymous report, or where a Complainant withdraws a Formal Complaint, or where a Complainant refuses to further participate in the process, the Title IX Coordinator may sign a formal complaint commencing the grievance resolution process in order to ensure that matters which pose a threat to the educational, employment, or other opportunities provided by the College, are addressed. If a Complainant alleging to be a victim of an incident of sexual harassment, sexual assault, dating violence, family violence, stalking, or retaliation reported to the Title IX Coordinator requests that the alleged incident not be investigated, the Title IX Coordinator may have the alleged incident investigated in a manner that complies with the confidentiality requirements of this policy. In determining whether to have the alleged incident investigated, the Title IX Coordinator or a Deputy Title IX Coordinator shall consider:

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- (1) the seriousness of the alleged incident;
- (2) whether the Title IX Coordinator or a Deputy Title IX Coordinator has received other reports of sexual harassment, sexual assault, dating violence, stalking, or retaliation committed by the alleged Respondent(s);
- (3) whether the alleged incident poses a risk of harm to others; and
- (4) any other factors the Title IX Coordinator or a Deputy Title IX Coordinator determines relevant.

If the Title IX Coordinator decides not to have an alleged incident of sexual harassment, sexual assault, dating violence, stalking or retaliation investigated based on the Complainant's request not to investigate, the Title IX Coordinator shall take any steps deemed necessary to protect the health and safety of the College community in relation to the alleged incident. The Title IX Coordinator or a Deputy Title IX Coordinator shall inform an alleged victim of an incident of sexual harassment, sexual assault, dating violence, stalking, or retaliation who requests that the Title IX Coordinator or a Deputy Title IX Coordinator not to investigate the alleged incident of the whether or not the alleged incident will be investigated.

3. Optional Risk Assessment/Emergency Removal

Upon receiving a report of conduct that may violate Title IX or Section 51.281, the Title IX Coordinator or Deputy Title IX Coordinator may refer a party for an individualized risk assessment by the College's Behavioral Intervention Team (BIT). The BIT may act to remove a student Respondent entirely or partially from its education program 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 justifies removal. This risk analysis is performed by the Title IX Coordinator or a Deputy Title IX Coordinator in conjunction with the Behavioral Intervention Team (also known as BIT/BAT/TAT/CARE, etc.) using its standard objective violence risk assessment procedures.

In all cases in which an emergency removal is imposed, the student Respondent will be given notice of the action and the option to request to meet with the Title IX Coordinator prior to such action/removal being imposed, or as soon thereafter as reasonably possible, to show cause why the action/removal 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 is appropriate. When the student Respondent does not timely request this,

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objections to the emergency removal will be deemed waived.

A Complainant and their Advisor may be permitted to participate in this meeting if the Title IX Coordinator or a Deputy Title IX Coordinator determines it is equitable to do so. There is no appeal process for emergency removal decisions.

A Respondent may be accompanied by an Advisor of their choice when meeting with the Title IX Coordinator for the show cause meeting. The Respondent will be given access to a written summary of the basis for the emergency removal prior to the meeting to allow for adequate preparation.

The Title IX Coordinator or a Deputy Title IX Coordinator has sole discretion under this policy to implement or stay an emergency removal and to determine the conditions and duration of the emergency removal. Violation of an emergency removal under this policy will be grounds for discipline within the student or employee conduct processes, which may include expulsion or termination.

4. Supportive Measures

Alleged victims of Sexual Harassment or of Prohibited Behavior will be offered Supportive Measures before a Formal Complaint or during the pendency of the grievance resolution process, including, but not limited to: protection from retaliation, interim no-contact orders, academic support (such as dropping courses without academic penalty), alternative work arrangements, campus safety escorts, referrals to counseling, community-based service providers, or any other action deemed appropriate. To the greatest extent practicable, referrals to counseling will be offered by a counselor who does not provide counseling to any other person involved in the incident. The College will maintain the confidentiality of the supportive measures, provided that confidentiality does not impair the College's ability to provide those supportive measures. The College will act to ensure as minimal an academic impact on the parties as possible. The College will implement 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 community-based service providers
- Student financial aid counseling
- Altering work arrangements for employees or student-employees
- Safety planning
- Providing campus safety escorts
- Providing transportation accommodations

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- Implementing contact limitations (no contact orders) between the parties
- Academic support or other course/program- related adjustments
- Timely warnings
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus

5. Provision of Advisors

Complainants and Respondents have the right to an Advisor of their choice to assist them in proceedings involving a Formal Complaint alleging Sexual Harassment or Prohibited Behavior. An Advisor may be an attorney, a faculty member, a staff member, a family member, a friend or any other support person. The College may establish restrictions regarding the extent to which the Advisor may participate in the proceedings, as long as the restrictions apply equally to both parties. A Complainant or Respondent who desires more than one Advisor must make such a request as early as possible within the resolution process and if more than one Advisor is allowed for one party, the other party will be allowed the same number of Advisors. No more than two Advisors per party will be allowed unless justification in writing is provided to the College. Parties may choose not to use an advisor in any stage of the grievance resolution process except that parties **must** have an Advisor who **must** conduct cross-examination of other witnesses if a Live Hearing is conducted. If a party does not have an Advisor present at the Live Hearing, the Title IX Coordinator or a Deputy Title IX Coordinator will appoint an advisor who will conduct the cross-examination on behalf of that party.

Advisors must be willing and available to serve as an advisor. Advisors will be provided information about the grievance resolution process. Advisors who are otherwise Mandatory Reporters will be temporarily exempt from mandatory reporting solely for the matter in which they serve as an Advisor.

6. Notice of Allegations and Investigation

Before commencement of the grievance resolution process of a Formal Complaint alleging Sexual Harassment or Prohibited Behavior, notice of the allegations must be provided to an alleged respondent for a Title IX matter. Such notice may not be provided if the Complainant is only seeking supportive measures without the filing of a Formal Complaint or if a Complainant withdraws their complaint prior to commencement of the grievance resolution process with no impact upon the alleged Respondent.

The grievance resolution process for Formal Complaints alleging Sexual Harassment or Prohibited Behavior, will be in accordance with grievance

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procedure set forth in 34 C.F.R. §106.45.

The grievance resolution process for complaints alleging sex discrimination or other prohibited behavior other than Sexual Harassment or Prohibited Behavior, will be the non-adversarial procedure set forth in Policy 4904.

7. Informal Resolution

Upon receipt of a Formal Complaint alleging Sexual Harassment or Prohibited Behavior, or any time after receiving a report of conduct in violation of this policy, the Title IX Coordinator or a Deputy Title IX Coordinator may facilitate an informal resolution amenable to all parties involved as follows:

1. By providing supportive measures to the Complainant that remedy the situation;
2. When the Respondent agrees to responsibility for a violation and accepts a sanction amenable to all parties; or
3. When the parties agree to a mediation.

The Complainant and the Respondent must voluntarily agree to the informal resolution in writing and no party will be pressured to participate. The parties may choose to stop the Informal Resolution process at any time and request another form of resolution. However, a Live Hearing is required for complaints alleging Sexual Harassment and other Prohibited Behavior if an Informal Resolution cannot be reached.

8. Investigations

Investigations will be conducted in accordance with all applicable laws, regulations and policies. Formal Complaints alleging Sexual Harassment or Prohibited Behavior will be investigated by investigators who have received training in compliance with Title IX regulations. Investigations may involve interviews with parties or witnesses; obtaining available, relevant evidence; or identifying sources of expert information, as necessary.

A 10-day review period will be provided to Complainants and Respondents to review a draft investigation report including relevant evidence and for the opportunity to provide additional feedback, evidence, or witnesses. After this 10-day period, the investigator will update the investigative report, if necessary, and the Title IX Coordinator or Deputy Title IX Coordinator will provide the parties with a final investigative report at least ten (10) days prior to a Live Hearing.

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9. Live Hearings

After an investigation is complete and if an Informal Resolution does not resolve the matter, the case will be referred for a Live Hearing.

a. Policy applicable to all Hearings

Hearings conducted under this policy will be heard by a Hearing Officer or a Panel of three (3) decision makers determined at the discretion of the Title IX Coordinator or a Deputy Title IX Coordinator.

All Live Hearings are subject to the preponderance of the evidence standard of proof.

b. Formal, Live Hearings for Title IX and Chapter 51.281 Complaint

A formal live hearing will occur no less than ten (10) business days after a final investigative report is issued to the parties, unless all parties, advisors and staff involved agree to an expedited hearing. Hearings must be live and must be recorded.

The Hearing Officer or Panel will make a determination on all of the evidence available.

More information about the procedure for all hearings is available by contacting the Title IX Coordinator or Deputy Title IX Coordinator or here:

https://www.southtexascollege.edu/about/pdf/Complaint_and_Grievance_Procedures.pdf

10. Notice of Outcome and Sanctions

a. For Title IX Hearings

Once a hearing has been conducted, the Hearing Officer or Panel members will deliberate and issue a finding of responsibility for each alleged violation in a written deliberation statement that will include the determination, rationale, the evidence relied upon in support of the determination, any evidence not relied upon, credibility assessments and recommendations for sanctions.

The written deliberation statement will then be shared with the Title IX Coordinator or a Deputy Title IX Coordinator who will work with the

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Hearing Office to prepare a Notice of Outcome, including any applicable sanctions, to be provided to the Parties.

b. For Non-Title IX Hearings

The Hearing Officer or Panel will deliberate and issue a finding of responsibility for each alleged violation, rationale for the decision, and recommended sanctions. Either the Hearing Officer finalize the Notice of Outcome to be issued to the Parties.

c. Disciplinary Actions and Sanctions

For a list of sanctions that may be imposed upon responsible parties who are students, please refer to the Student Handbook/Code of Conduct or here: https://www.southtexascollege.edu/pdf/Student_Handbook.pdf

For a list of disciplinary actions that may be imposed upon responsible parties who are employees, please refer to the Employee Handbook or here: <https://admin.southtexascollege.edu/president/policies/pdf/4000/4911.pdf>

11. Dismissal of Complaint

An allegation of Sexual Harassment presented as a Formal Complaint is subject to the mandatory dismissal procedures under Title IX. A Formal Complaint may be dismissed at any time upon the request of the Complainant. However, the Title IX Coordinator must first assess the Complainant's request to dismiss in accordance with Section XI(C)(2) (Formal, Complaint Signed by Complainant or Title IX Coordinator Required). A Formal Complaint may also be dismissed if specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the Formal Complaint or any of the allegations therein.

12. Promptness of Resolution

All allegations of Sexual Harassment or Prohibited Behavior will be acted upon promptly by the Title IX Coordinator or a Deputy Title IX Coordinator after the Title IX Coordinator or a Deputy Title IX Coordinator has actual knowledge of the allegation or a Formal Complaint has been filed with the Title IX Coordinator or a Deputy Title IX Coordinator. Complaints can take 60 to 90 business days to resolve, typically. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, but the Title IX Coordinator or a Deputy Title IX Coordinator will respond promptly in a manner that is not deliberately indifferent. Any time the general timeframes for

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resolution will be delayed, the Title IX Coordinator or a Deputy Title IX Coordinator will provide written notice to the victim/Complainant and Respondent 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.

13. Appeals

Parties may appeal the Notice of Outcome for any type of hearing within ten (10) business days of receipt of the Notice of Outcome. Appeals are limited to the following bases:

1. Procedural irregularity;
2. New evidence that was not reasonably available at the time the determination was made; or
3. A conflict of interest or bias on the part of any person involved with the administration of the hearing.

14. Prevention and Outreach Program

The College shall develop and implement a comprehensive prevention and outreach program on sexual harassment, sexual assault, dating violence, and stalking which:

- (1) Addresses a range of strategies to prevent sexual harassment, sexual assault, dating violence, and stalking, including a victim empowerment program, a public awareness campaign, primary prevention, bystander intervention, and risk reduction; and
- (2) Provides students with information regarding the protocol for reporting incidents of sexual harassment, sexual assault, dating violence, and stalking including the name, office location, and contact information of the institution's Title IX coordinator or a Deputy Title IX Coordinator, by:
 - (a) e-mailing the information to each student at the beginning of each semester or other academic term; and
 - (b) including the information in the orientation required

As part of the protocol for responding to reports of sexual harassment, sexual assault, dating violence, and stalking the College shall:

- (1) to the greatest extent practicable based on the number of counselors employed by the institution, ensure that each alleged victim or alleged perpetrator of an incident of sexual harassment, sexual assault, dating violence, or stalking and any other person who reports such an incident

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are offered counseling provided by a counselor who does not provide counseling to any other person involved in the incident; and notwithstanding any other law, allow an alleged victim or alleged perpetrator of an incident of sexual harassment, sexual assault, dating violence, or stalking to drop a course in which both parties are enrolled without any academic penalty.

15. Trauma-Informed Investigation Training

Each peace officer employed by the College shall within one (1) calendar year of the adoption of this policy by the College or within one (1) calendar year of the peace officer's employment with the College, whichever date is later, shall complete training on trauma-informed investigation into allegations of sexual harassment, sexual assault, dating violence, domestic violence, and stalking.

16. Amnesty for Students Reporting Certain Incidents

The College may not take any disciplinary action against a student enrolled at the College who in good faith reports to the College being the victim of, or a witness to, an incident of sexual harassment, sexual assault, dating violence, or stalking for a violation by the student of the College's code of conduct occurring at or near the time of the incident, regardless of the location at which the incident occurred or the outcome of the institution's disciplinary process regarding the incident, if any.

The College may investigate to determine whether a report of an incident of sexual harassment, sexual assault, dating violence, or stalking was made in good faith.

A determination that a student is entitled to amnesty under this section is final and may not be revoked.

This subsection does not apply to a student who reports the student's own commission or assistance in the commission of sexual harassment, sexual assault, dating violence, domestic violence, stalking or retaliation.

This section may not be construed to limit the College's ability to provide amnesty from application of the College's institution's policies in circumstances not described by this subsection.

17. Memoranda of Understanding Required

To facilitate effective communication and coordination regarding allegations of sexual harassment, sexual assault, dating violence, domestic violence, and stalking at the College, the College shall enter into a memorandum of

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understanding with one or more:

- a. local law enforcement agencies;
- b. sexual harassment, sexual assault, dating violence, or stalking advocacy groups; and
- c. hospitals or other medical resource providers.

18. Orientation for New Students on Sexual Harassment and Prohibited Behavior

South Texas College shall require each entering freshman or undergraduate transfer student to attend an orientation on the institution's sexual harassment, sexual assault, dating violence, and stalking policy before or during the first semester or term in which the student is enrolled at the institution. The College shall establish the format and content of the orientation. The orientation:

1. may be provided online; and
2. must include the statements regarding:
 - a. the importance of a victim of sexual harassment, sexual assault, dating violence, or stalking going to a hospital for treatment and preservation of evidence, if applicable, as soon as practicable after the incident;
 - b. the right of a victim of sexual harassment, sexual assault, dating violence, or stalking to report the incident to the institution and to receive a prompt and equitable resolution of the report; and
 - c. the right of a victim of a crime to choose whether to report the crime to law enforcement, or to decline to report the crime to law enforcement;

19. Administrative Reporting Requirements

Not less than once every three months, the Title IX coordinator or a Deputy Title IX Coordinator shall submit to the College President a written report on the reports received regarding Sexual Harassment or Prohibited Behavior, including information regarding:

- a. the investigation of those reports;
- b. the disposition, if any, of any disciplinary processes arising from those reports; and
- c. the reports for which the College determined not to initiate a disciplinary process, if any.

The College's Title IX Coordinator or Deputy Title IX coordinator shall immediately report to the College President an incident reported to the Title IX Coordinator or a Deputy Title IX Coordinator if the coordinator has cause

