

COMPLAINT AND GRIEVANCE PROCEDURES

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Purpose

Associated Policy 4216 Discrimination, Harassment, Retaliation and Sexual Misconduct

Procedures

A. Policy 4216 Discrimination, Harassment, Retaliation and Sexual Misconduct

The College maintains guidelines and procedures regarding discrimination, harassment, retaliation and sexual misconduct in compliance with the Title IX Education Amendments of 1972 and in compliance with Policy 4216 Discrimination, Harassment, Retaliation and Sexual Misconduct.

The College does not permit discrimination or harassment in its programs and activities on the basis of race, color, national origin, sex, gender identity, gender expression, sexual orientation, disability, veteran status, predisposing genetic characteristic, age, religion, pregnancy status or any other characteristic protected by College policy or state, local, or federal law. Anyone who believes they have been subjected to discrimination or harassment in violation of policy should follow the procedure outlined to report these concerns.

This process involves a prompt preliminary inquiry to determine if there is reasonable cause to believe the nondiscrimination policy has been violated. If so, the College will initiate an investigation that is thorough, reliable, impartial, prompt and fair. This investigation determines whether the College nondiscrimination policy has been violated. If so, the College will promptly implement an effective remedy designed to end the discrimination, prevent its recurrence and address its effects.

The College aims to bring all allegations to a resolution within a sixty (60) business day time period, which can be extended as necessary for appropriate cause by the Title IX Coordinator with notice to the parties. In overview, the timeline for resolution begins with notice to a mandated reporter. The Coordinator then engages in a preliminary inquiry that is typically 1-3 days in duration. From there, the allegation can lead to a formal investigation, which usually starts within days of the preliminary inquiry's conclusion. Investigations range from days to weeks, depending on the nature and complexity of allegations, with the College commonly aiming for a 10-14 window to completion. The parties are regularly apprised of the

status of the investigation as it unfolds. The process may then end or continue. If it continues, barring necessary extensions, the investigation leads to formal and informal resolution options, which the College aims to complete in 10-14 days from the end of the investigation. A failed informal resolution which triggers a formal resolution may require the College to extend this timeline accordingly. From there, appeals may be requested, with a three-day window to file appeal requests once a formal determination is reached, a three-day window to grant or deny the appeal request, and another 7-10 days for a final resolution to be reached. In rare cases where a remanded decision results in a new hearing, the results of that hearing can be appealed once, which would typically add another 10-14 days to final results.

B. COMPLAINT INTAKE (Discrimination, Harassment, Retaliation and Sexual Misconduct):

CONFLICT RESOLUTION CENTER and/or Title IX Coordinator

- student to student complaints
- employee to student complaints
- community member to student complaints

OFFICE OF HUMAN RESOURCES and/or Title IX Coordinator

- employee to employee complaints
- student to employee complaints
- community member to employee complaints

SOUTH TEXAS COLLEGE POLICE DEPARTMENT

- complaints against students, employees or community members

C. INFORMAL RESOLUTION PROCEDURES

1.1 Informal Dispute Resolution Efforts

Informal resolution is an alternative to the formal complaint resolution process. The Title IX Coordinator will determine if informal resolution is appropriate, based on the willingness of the parties and the nature of the alleged conduct.

Examples of informal resolutions could be:

- Informal Meetings
 - Informal unstructured discussion between parties (complainant/respondent) with an HR representative, or other third party representation, if requested
- Mediation
 - Formal structured discussion between parties (complainant/respondent) conducted by a Mediator

Sanctions are generally not pursued as the result of an informal resolution process, though the parties may agree to appropriate remedies. It is not necessary to pursue informal resolution first in order to make a formal

complaint, and anyone participating in informal resolution can stop that process at any time and request to continue through the formal process.

If an allegation includes actions that involve criminal activity and/or sexual assault, reports will be coordinated by the Title IX Coordinator. Individuals are strongly encouraged to also file a report with South Texas College Police. If the victim refuses to file a report, the person who hears about it first must file a report with the College Police Department.

D. FORMAL COMPLAINT INTAKE (Discrimination, Harassment, Retaliation and Sexual Misconduct):

CONFLICT RESOLUTION CENTER and/or POLICE DEPT and/or Title IX Coordinator

- student to student complaints
- employee to student complaints
- community member to student complaints

OFFICE OF HUMAN RESOURCES and/or POLICE DEPT and/or Title IX Coordinator

- employee to employee complaints
- student to employee complaints
- community member to employee complaints

SOUTH TEXAS COLLEGE POLICE DEPARTMENT

- complaints against students, employees or community members

E. FORMAL RESOLUTION PROCEDURES

1.1 Complaint Intake

Following receipt of notice or a complaint, the Title IX Coordinator or Deputy Coordinator will, within 4 business days, make an initial determination as to whether the information has merit to reasonably indicate there may have been a violation of College policy.

The following are recommended elements of a report:

- Clear and concise description of the alleged incident(s) (e.g.: when and where it occurred);
- Any supporting documentation and evidence;
- Clear demonstration of all informal efforts, if any, to resolve the issue(s) with the person involved and the person's supervisor;
- This includes names, dates and times of attempted or actual contact along with a description of the discussion and the manner of communication made in the course of each effort;
- If contacting the person involved and/or the supervisor is impracticable, the reporting party should state the reasons why;
- The desired remedy sought;
- Name and all contact information for the reporting party;

- Signed by the reporting party.

STUDENTS: The Office of Student Conduct has primary authority and responsibility for the administration of student discipline.

EMPLOYEES: Upon receipt of a complaint the Office of Human Resources will open a formal case file and assign a Title IX Investigator who will direct the investigation and confer with the Title IX Coordinator on interim action, accommodations for the alleged victim, or other necessary remedial short-term actions.

Complaints not assigned to a Title IX Investigator will follow Employee Complaint Procedure as per Policy 4910.

COMMUNITY MEMBERS: The South Texas College Police Department may conduct an investigation and review the information.

1.2 Notice of Allegations

Once an investigator has been assigned, written notice of the allegations will be provided to the parties involved. If the respondent is an employee, the written notice will be copied to the employee's Supervisor, Director/Dean.

1.3 Interim Action

The College will implement interim actions upon notice of alleged discrimination, harassment, and/or retaliation and will take additional prompt remedial and/or disciplinary action with respect to any member of the community, guest, or visitor who has violated this policy. Interim actions include but are not limited to: no contact orders, no trespass notices, providing counseling and/or medical services, academic support, providing a campus escort, academic or work schedule and assignment accommodations, safety planning, and referral to campus and community resources. The College may suspend, on an interim basis, a student or student organization or place an employee on administrative leave pending the completion of the investigation and procedures. In cases in which an interim suspension or administrative leave is imposed, the student, employee, or student organization will be given the opportunity to meet with an appropriate administrator prior to such action being imposed, or as soon thereafter as reasonably possible, to show cause why the action should not be implemented. Violation of interim provisions will be grounds for disciplinary action.

1.4 Investigation

If a complainant wishes to pursue a formal complaint or if the College determines an investigation is necessary, the Title IX Coordinator will assign an investigator, usually within 2 business days of determining that a complaint should proceed. Investigations will be thorough and impartial and will entail interviews with relevant parties and witnesses, and obtaining available evidence. The College aims to complete investigations within 60 days, which can be extended as necessary for appropriate cause by the Title IX Coordinator with notice to the parties. Investigation may take longer when initial complaints fail to provide direct first-hand information. College action will continue regardless of the status of civil or criminal charges involving the same incident. The investigative officer will then take the

following steps:

- Determine the identity and contact information of the complainant (whether that be the initiator, the alleged victim, or a College proxy or representative);
- Identify the correct policies allegedly violated;
- Conduct an immediate initial investigation to determine if there is reasonable cause to charge the accused individual, and what policy violations should be alleged as part of the complaint
- If there is insufficient evidence to support reasonable cause, the complaint should be closed with no further action;
- Meet with the complainant to finalize the complaint and;
- Prepare the notice of allegations on the basis of the initial investigation;
- Commence a thorough, reliable and impartial investigation by developing a strategic investigation plan, including a witness list, evidence list, intended timeframe, and order of interviews for all witnesses and the accused individual, who may be given notice prior to or at the time of the interview;
- Complete the investigation promptly, and without unreasonable deviation from the intended timeline;
- The investigative office will give the evidence found in the investigation to the Title IX Coordinator who will then make a finding, based on a preponderance of the evidence (whether a policy violation is more likely than not);
- Present the findings to the accused individual, who may accept the findings, accept the findings in part and reject them in part, or may reject all findings;
- Share the findings and update the complainant on the status of the investigation and the outcome.
- Where the accused individual is found not responsible for the alleged violation(s), the investigation will be closed.

1.5 Student Withdrawal While Investigation Pending

Should a responding student decide to withdraw from the College and/or not participate in the investigation and/or hearing, the process will nonetheless proceed in the student's absence to a reasonable resolution and that student will not be permitted to return to the College unless any and all sanctions have been satisfied. The Title IX Coordinator will continue to act to promptly and effectively remedy the effects of the conduct upon the victim and the community.

1.6 Employee Resignation While Investigation Pending

Should a responding employee resign while charges are pending, the records of the Title IX Coordinator will reflect that status, as will Coordinator responses to any future inquiries regarding employment references for that individual. Should an employee decide to leave and not participate in the investigation and/or hearing, the process will nonetheless proceed in the employee's absence to a reasonable resolution and that employee will not be permitted to return to the College unless any and all sanctions have been satisfied.

1.7 Notification of Outcomes

STUDENTS:

If it is found there is a violation of College policy, the Office of Student Conduct will impose appropriate sanctions for the violation, after consultation with the Title IX Coordinator. The College will act to end the sexual misconduct, gender discrimination or retaliation, prevent its recurrence, and remedy its effects on the victim and the College community. In the event that the accused individual rejects the findings in part or entirely, the Office of Student Conduct will convene a hearing under its respective procedures to determine whether the accused individual is in violation of the contested aspects of the complaint. At the hearing, the findings of the investigation will be admitted, but are not binding on the decider(s) offact. The investigative officer(s) may give evidence. The hearing will determine whether it is more likely than not that the accused individual violated the policies forming the basis of the charge. The goal of the hearing is to provide an equitable resolution via an equitable process, respecting the civil and legal rights of all participants. The Office of Student Conduct has final decision-making authority with regard to formal complaints, subject to appeal. Where an accused individual is found in violation, preferably in the form of a recommendation of finding and sanction to the Director Judicial Affairs, the Office of Student Conduct will impose appropriate sanctions for the violation, after consultation with the Title IX Coordinator. The College will act to end the sexual misconduct, gender discrimination, retaliation or harassment, prevent its recurrence, and remedy its effects on the victim and the College community. Appeal proceedings will apply to all parties to the complaint.

EMPLOYEES:

If it is found there is a violation of College policy, the Office of Human Resources will impose appropriate sanctions for the violation, after consultation with the Title IX Coordinator. The College will act to end the sexual misconduct, gender discrimination, or retaliation, prevent its recurrence, and remedy its effects on the victim and the College community.

COMMUNITY MEMBERS:

The South Texas College Police Department will have the police report completed with the information.

1.8 Investigation Findings

STUDENTS: Upon receipt of the investigative report, the Title IX Coordinator will forward it to the Dean of Student Affairs or designee for an appropriate hearing per Student Code of Conduct procedures. Following the hearing, the decision of whether a policy violation has occurred will be determined by using a preponderance of the evidence standard. A finding of a policy violation by a preponderance of the evidence means that it is more likely than not that the policy violation occurred. If, following the hearing, the decision is that no policy violation has occurred the process will end. Regardless of the outcome, the complainant, the respondent, and the Title IX Coordinator will be notified of the finding in writing. If, following a hearing, the student is found to have violated College policy, appropriate disciplinary

sanctions will be determined after consultation with the Title IX Coordinator. The Dean of Student Affairs (or designee) will notify the respondent, the complainant, and the Title IX Coordinator in writing of the Dean of Student Affairs' decision. This written decision must be issued within 15 working days of the date of receipt of the investigative report from the Title IX Coordinator.

EMPLOYEES: Upon receipt of the investigative report, the Title IX Coordinator will determine if policy has been violated by using a preponderance of the evidence standard. A finding of a policy violation by a preponderance of the evidence means that it is more likely than not that the policy violation occurred. If the Title IX Coordinator decides that no policy violation has occurred, then the process will end. Regardless of the outcome, the complainant and the respondent will be notified of the finding in writing. The respondent's supervisor, Director/ Dean, Vice President, and the President will also be notified of the finding. In the event that the employee violated College policy, the Vice President of the respondent, in consultation with the Office of Human Resources, will determine appropriate disciplinary sanctions based on the recommendation from the supervisor, Title IX Coordinator and the Office of Human Resources. Regardless of the outcome, the complainant, the respondent, and the Title IX Coordinator will be notified in writing of the outcome within 15 working days of the date of the notice from the Title IX Coordinator.

COMMUNITY MEMBERS: The South Texas College Police Chief will provide the Title IX Coordinator the police report and findings of the investigation.

1.9 Sanctions

Sanctions will be recommended by the Title IX Coordinator and forwarded to the decision-making authority.

STUDENTS: The following are sanctions that may be imposed by this policy:

- Warning: A formal statement that the behavior was unacceptable and a warning that any further infraction of any College policy, procedure, or directive may result in more severe sanctions or responsive actions.
- Probation: A written reprimand for violation of the Student Code of Conduct that provides for more severe disciplinary sanctions in the event that the student or organization is found in violation of any College policy, procedure, or directive within a specified period of time. Terms of the probation will be specified and may include denial of specified social privileges, exclusion from co-curricular activities, no contact orders, and/or other measures deemed appropriate.
- Deferred Suspension: A serious and final warning that any violation of College policy could result in immediate separation of the student from the College for a specified period of time, after which the student is eligible to return. Conditions for readmission may be specified.

- Suspension: Termination of student status for a definite period of time and/or until specific criteria are met. Conditions for readmission may be specified.
- Expulsion: Permanent termination of student status, revocation of rights to be on campus for any reason, and/or attend College-sponsored events.
- Organizational Sanctions: Deactivation, de-recognition, or loss of all privileges (including College registration), for a specified period of time or permanently.
- Other Actions: In addition to or in place of the above sanctions, the College may assign any other sanction(s) as deemed appropriate.

EMPLOYEES: Sanctions for an employee who has violated this policy may include, but are not limited to, verbal or written warning, required counseling, training, reassignment, suspension with or without pay, and termination in accordance with the following policies:

- Policy #4118 Provisions of Faculty Letter of Appointment
- Policy #4920 Discipline and Dismissal
- Policy #4921 Termination of Annual Employees during the Term of their Letter of Appointment

COMMUNITY MEMBERS: The complainant may elect to press charges against the perpetrator.

1.10 Failure to Complete Sanctions

All respondents are expected to comply with sanctions within the timeframe specified in their written notice. Failure to follow through on sanctions by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanctions and/or suspension, expulsion, and/or termination from the College. For students, failure to comply may result in a hold being placed on their records to prevent future registration.

1.11 Additional Remedial Actions

In addition to the interim actions outlined above, the Title IX Coordinator (or designee) may provide remedial actions intended to address the short or long-term effects of sexual misconduct, gender discrimination, and/or retaliation. That is, remedial actions may be taken at the conclusion of the process in addition to any actions that may have been taken on an interim basis, in order to redress harm to the complainant and the community and to prevent further harassment or violations. Remedial actions may also be used when, in the judgment of the Title IX Coordinator (or designee), the safety or well-being of any member(s) of the campus community may be jeopardized by the presence on campus of the respondent or the ongoing activity of a student organization whose behavior is in question. These remedies may include, but are not limited to, referral to counseling and health services, education to the community, altering work arrangements, providing campus escorts, implementing contact limitations between the

parties, or offering adjustments to academic deadlines and/or course schedules.

Participation of Advocates in the Resolution Process

All parties are entitled to an advocate of their choosing to guide and accompany them throughout the campus resolution process. The advocate may be a friend, mentor, family member, attorney or any other supporter a party chooses to advise them who is both eligible and available. People who will be called as witnesses may not serve as advocates. The College maintains a pool of trained (non-attorney) advocates who are available to the parties. The parties may choose advocates from outside the pool, or outside the campus community, but those advocates may not have the same level of insight and training on the campus process as do those trained by the College. Outside advocates are not eligible to be trained by the College.

The parties are entitled to be accompanied by their advisor in all meetings and interviews at which the party is entitled to be present, including intake, interviews, hearings and appeals. Advocates should help their advisees prepare for each meeting, and are expected to advise ethically, with integrity and in good faith. The College 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, the College is not obligated to provide one. However, the responding parties may wish to contact organizations such as:

- FACE (<http://www.facecampusequality.org>)
- SAVE (<http://www.saveservices.org>),

Reporting parties may wish to contact organizations such as:

- The Victim Rights Law Center (<http://www.victimrights.org>), or the
- The National Center for Victims of Crime (<http://www.victimsofcrime.org>), which maintains the Crime Victim's Bar Association.)

All advocates are subject to the same campus rules, whether they are attorneys or not. Advocates may not present on behalf of their advisee in a meeting, interview or hearing and should request or wait for a break in the proceeding if they wish to interact with campus officials. Advocates may confer quietly with their advisees as necessary, as long as they do not disrupt the process. For longer or more involved discussions, the parties and their advocates should ask for breaks or step out of meetings to allow for private conversation. Advocates will typically be given a timely opportunity to meet in advance of any interview or hearing with the

administrative officials conducting that interview or meeting. This pre-meeting will allow advocates clarify any questions they may have, and allows the College an opportunity to clarify the role the advisor is expected to take.

Advocates are expected to refrain from interference with the College investigation and resolution. Any advocate who steps out of their role in any meeting under the campus resolution process will be warned once and only once. If the advocate continues to disrupt or otherwise fails to respect the limits of the advocate role, the advocate will be asked to leave the meeting. When an advocate is removed from a meeting, that meeting will typically continue without the advocate present. Subsequently, the Title IX Coordinator or a deputy will determine whether the advocate may be reinstated, may be replaced by a different advocate, or whether the party will forfeit the right to an advocate for the remainder of the process.

The College expects that the parties will wish the College to share documentation related to the allegations with their advocates. The College provides a consent form that authorizes such sharing. The parties must complete this form before the College is able to share records with an advocate. The parties are not otherwise restricted from discussing and sharing information relating to allegations with others who may support them or assist them in preparing and presenting. Advocates are expected to maintain the privacy of the records shared with them by the College. These records may not be shared with 3rd parties, disclosed publicly, or used for purposes not explicitly authorized by the College. The College may seek to restrict the role of any advocate who does not respect the sensitive nature of the process or who fails to abide by the College's privacy expectations.

The College expects an advocate to adjust their schedule to allow them to attend College meetings when scheduled. The College does not typically change scheduled meetings to accommodate an advocate's inability to attend. The College will, however make provisions to allow an advocate who cannot attend in person to attend a meeting by telephone, video and/or virtual meeting technologies as may be convenient and available.

A party may elect to change advocates during the process, and is not locked into using the same advocate throughout.

The parties must advise the investigators of the identity of their advocate at least two (2) business days before the date of their first meeting with investigators. The parties must provide subsequent timely notice to the investigators if they change advocates at any time. No audio or video

recording of any kind other than as required by institutional procedure is permitted during meetings with campus officials.

1.12 Appeals

All sanctions originally imposed be in effect during the appeal.

STUDENTS: Requests for appeal considerations must be submitted in writing to the Vice President for Student Affairs and Enrollment Management as stipulated under the Student Code of Conduct.

EMPLOYEES: In this procedure, the term grievance means an employee has a right to present an appeal to the notice of disciplinary action in person, or in writing, to the President. Requests for appeal considerations must be submitted in writing to the President within 5 working days after receipt of the final written notice as stipulated under Policy #4911.

The ONLY grounds for appeal are as follows:

- A substantive error occurred that significantly impacted the outcome of the hearing (e.g. substantiated bias, material deviation from established procedures, etc.);
- To consider new evidence, unavailable during the original hearing or investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included;
- The sanctions imposed fall outside the range of sanctions designated for this offense and the cumulative conduct history of the responding party.

COMMUNITY MEMBERS: Request for appeals is handled through the courts.

1.13 False Complaints

Filing of False Complaints

Any person who knowingly and intentionally files a false complaint is subject to disciplinary action up to and including dismissal or expulsion from the College, in accordance with existing policy.

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