

Southeast Community College
Administrative Guidelines
for Reports of Employee Sexual Harassment

Title IX Coordinator

Robert Sanford, J.D.

Administrative Director of Title IX
and Institutional Compliance

301 S. 68th St Place, Office #509

Lincoln, NE 68510

402-323-3418

rsanford@southeast.edu

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1 *Title IX Statement and Policy; Sexual Harassment Prohibited*

2

access to the recipient's education program or activity; or

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).¹

2 REPORTING OPTIONS

Any person may report sex discrimination, including sexual harassment, regardless of whether the person reporting it is the person alleged to be the victim of conduct that could be sex discrimination or sexual harassment.

The College may investigate reported allegations of sexual harassment and implement appropriate responsive measures even if the person subject to alleged harassment does not wish to pursue formal action. The College's ability to respond, however, may be limited by a person's reluctance to participate

Reporting options include:

File a Complaint Directly with the Title IX Coordinator or Human Resources

Reports of sexual harassment may be made in person, by mail, telephone, or electronic mail, by contacting the Title IX Coordinator directly at:

Robert Sanford, J.D.
Administrative Director of Title IX
and Institutional Compliance
301 S. 68th St Place, Office #509
Lincoln, NE 68510
402-323-3418
rsanford@southeast.edu

A complaint of sexual harassment by or against a College employee can also be made to the Administrative Director of Human Resources at SCC:

Sarah Murtagh,
Administrative Director for Human Resources
SCC Area Office
301 S 68th St Pl
Lincoln, NE 68510
(402) 437-2553
smurtagh@southeast.edu

Report a Crime

If there is a crime in progress or you need immediate medical attention or safety measures, please call 911.

Complainants

File a Report Using the College's Incident Reporting System

A person may report a concern using the TIPS reporting system. The TIPS link may be accessed on The Hub or on the college's website: www.southeast.edu. TIPS provides an online method by which SCC leadership may share campus concerns. Concerns expressed through TIPS which include sexual harassment

3 DEFINITIONS

Actual notice – notice of sexual harassment or allegations of sexual

D. Standard of Evidence

The standard of evidence for determining responsibility of a Respondent for alleged harassment is a preponderance of the evidence standard, or whether it is more likely than not that harassment occurred.

The same standard applies to all formal complaints against students, as well as employees, including faculty.

E. Formal Complaint Requirements

A formal complaint is a document filed by a complainant, or signed by the Title IX Coordinator, alleging sexual harassment against a respondent and requesting that the College investigate the allegation of sexual harassment.

At the time of filing a formal complaint, the complainant must be participating in or attempting to participate in the education program or activity of SCC. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information listed in Section 2 of this document, or any other method designated in Section 2 of this document.

A document filed by a complainant must contain the complainant's physical or digital signature, or otherwise indicate that the complainant is the person filing the formal complaint.

Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a complainant or otherwise a party to the action.

F. Notice of Allegations

Upon receipt of a formal complaint, SCC will provide the following written notice to all known parties, which must include:

1. Notice of the College's grievance process, including any informal resolution process;
2. Notice of the allegations of sexual harassment, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment, and the

If, during the course of an investigation, the College decides to investigate allegations about the Complainant or Respondent that are not included in the Notice of Allegations, SCC must provide notice of the additional allegations to the parties whose identities are known.

G. Dismissal of a Formal Complaint

The College will investigate formal complaints of sexual harassment. If the conduct alleged in the formal complaint does not constitute sexual harassment, even if proved, or did not occur in the College's educational programs or activities, then the College must dismiss the formal complaint with regard to that conduct for purposes of sexual harassment under Title IX, or 34 C.F.R. 106.45(3).

Such a dismissal does not preclude action under another provision of applicable College policy.

The College may also dismiss a formal complaint, or any allegations therein, if at any time during the investigation or hearing:

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

Upon such required or permissive dismissal, SCC must promptly send written notice of the dismissal and the reason(s) why, simultaneously, to both parties.

H. Consolidation of Formal Complaints

The College may consolidate formal complaints as to allegations of sexual harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances.

I. Concurrent Investigations

The College's resolution will not typically be altered or precluded on the grounds that civil or criminal charges involving the same incident have been filed or that charges have been reduced or dismissed. However, the College may undertake a short delay (several days to weeks) in its investigation or resolution process to comply with a law enforcement request for cooperation (e.g. to allow for criminal evidence collection) when criminal charges based on the same behaviors that invoke this process are being investigated. The College will promptly resume its investigation and processes once notified by law enforcement that their process is complete.

J. Investigating a Formal Complaint

When investigating a formal complaint, the burden of proof and the burden of gathering the evidence sufficient to reach a determination regarding responsibility rests on the

College and not the parties involved, provided that SCC cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless SCC obtains the party's voluntary, written consent to do so as part of the formal grievance process.

While investigations can vary in length from several days to several weeks, depending on the nature and complexity of the allegations, the College commonly aims for a ten to fourteen (10-14) business day window to completion.

All investigations will be thorough, reliable, and impartial, and will entail interviews with all relevant parties and witnesses, obtaining available evidence and identifying sources of expert information, if necessary.

1. Equal Opportunity to Present Evidence

The parties shall have an equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory or exculpatory evidence. The College may not

Advisors 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 to interact with campus officials;

Advisors 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 advisors should ask for breaks or step out of meetings to allow for private conversation;

Advisors will typically be given a timely opportunity to meet in advance of any interview or hearing with the Title IX Coordinator regarding that interview or meeting. This pre-meeting will allow advisors to clarify any questions they may have, and allows the College an opportunity to clarify the role the advisor is expected to take.

Advisors are expected to refrain from interference with the College's investigation and resolution.

Any advisor who steps out of their role in any meeting under the campus resolution process will receive a warning;

If the advisor continues to disrupt or otherwise fails to respect the limits of the advisor role, the advisor will be required to leave the meeting and may be escorted out of the meeting by SCC Safety/Security staff;

When an advisor is removed from a meeting, that meeting will typically continue without the advisor present;

Subsequently, the Title IX Coordinator or their designee may determine whether the advisor may be reinstated, be replaced by a different advisor, or whether the party will forfeit the right to an advisor for the remainder of the process.

Where an employee is a member of a College-recognized bargaining unit and entitled to a representative in the process, that employee may be accompanied by the representative as their advisor, or may choose an advisor in addition to their representative. In such cases, the other party may have two advisors as well.

The parties must advise the College of the identity of their advisor at least two (2)

Prior to completion of the investigative report, the College must send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least ten (10) days to submit a written response, which the investigator will consider prior to completion of the investigative report.

The College must make all such evidence subject to the parties' inspection and review available at any hearing to give each party an equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

4. Investigative Report & Notice of Outcome

The College must create an investigative report that fairly summarizes relevant evidence and, at least ten (10) days prior to a hearing, or other time of determination regarding responsibility, send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and response.

The investigative report will provide notice of the outcome to both parties, including any findings, any recommended sanctions, and the rationale for the decision. The notification will also include appeals options and procedures for both the Complainant and the Respondent.

5. Outcomes & Appeals

The following options describe how a party may proceed depending on whether the Respondent is found responsible and whether the Respondent accepts or rejects the findings and/or the sanctions in the investigative report either in whole or in part.

a) *The Respondent is Found "Not Responsible"*

Where the Respondent is found not responsible for the alleged violation(s), the investigation will be dismissed without further proceedings.

If both the Complainant and Respondent accept the findings and/or the sanctions in the investigative report, the investigation will be dismissed without further proceedings.

b)

below. If the Hearing Officer finds the Respondent responsible for all violations, it will recommend a sanction/responsive action or confirm original sanction to the Vice President of Human Resources, or their respective designee, who render a decision within seven (7) business days of the hearing and timely notify the parties orally, as well as in writing. An appeal of sanction(s) may be filed by any party to the complaint as detailed below.

2. Respondent Accepts the Findings in Part and Rejects in Part

Where the Respondent rejects in part the finding that they violated SCC policy, there will be a hearing on the disputed allegations within ten (10) business days, barring urgent circumstances. For all findings holding a Respondent responsible for a violation, the College will determine appropriate sanctions. If the Committee finds the Respondent not responsible on any of the contested allegations, the process ends.

6. Possible Disciplinary Sanctions & Remedies

At the conclusion of any disciplinary proceeding following a determination of responsibility, the College may implement any of the following disciplinary sanctions or remedies:

- Verbal warning;
- Written warning;
- Transfer;
- Completion of mandatory conditions;
- Suspension, with or without pay;
- Nonrenewal or non-reappointment;
- Loss of rank or position;
- Denial of salary increase;
- Activity termination;
- Demotion in rank or pay;
- Termination of employment;
- Ban on College reemployment.

These sanctions may be imposed separately, or in combination.

7 HEARINGS

All hearings will be conducted only by Hearing Officers trained on Title IX regulations, policies and protocol. The Hearing Officer has discretion to require attendance or participation of any person, subject to the rules outlined below. If an employee does not reply, or does not attend a scheduled hearing, a hearing may be held in their absence. Hearings may be heard before a single Hearing Officer, or by a Conduct Committee comprised of no less than three (3) College employees trained on Title IX regulations, policies, and protocol.

Hearing Officers have the authority to remove any person from the hearing who exhibits behavior that disrupts, interferes with, or otherwise violates College rules and

Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

C.

5. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the

9 RECORD-KEEPING REQUIREMENTS

The Title IX Coordinator will maintain, on behalf of the College, for a period of no less than seven (7) years, records of:

1. Each sexual harassment investigation regarding responsibility, as well as any audio or audiovisual recording or transcript required under 34 C.F.R. § 106.45, as well as any disciplinary sanctions imposed on the Respondent, and any remedies provided to the Complainant designed to restore or preserve equal access to SCC's educational programs or activities;
2. Any appeal or result therefrom;
3. Any informal resolution and the result therefrom; and
4. All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. SCC must make these training materials pu9()0n0(in)9(g)792 r792 r792 r792 r792 r792 r792 r792 r792 r792 r792 r792 r792 r792 r792 r792 r792

Statutory Rape: nonforcible sexual intercourse with a person who is under the statutory age of consent;

Incest: nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

Under 34 U.S.C. 12291(a)(10), dating violence means violence committed by a person—

(a) who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(b) 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.
- (iii) The frequency of interaction between the persons involved in the relationship.

Under 34 U.S.C. 12291(a)(8), domestic violence is defined as the ETQ EMC.00000912 0 612 BDC 108.02 364412 0 612 792 reW*BT/F4 11.04 Tf1 0 0 1 72.024 475.87 Tm2 Tr 0.32

felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under

Consent is an important concept when it comes to sexual assault. Consent must be a willingness or agreement to engage in sexual activity that is freely given with full information of the facts and circumstances.

Under *Neb. Rev. Stat. § 28-318*, “without consent” is legally defined as:

- (a) The victim was compelled to submit due to the use of force or threat of force or coercion, or (ii) the victim expressed a lack of consent through words, or (iii) the victim expressed a lack of consent through conduct, or (iv) the consent, if any was actually given, was the result of the actor's deception as to the identity of the actor or the nature or purpose of the act on the part of the actor;
- (b) The victim need only resist, either verbally or physically, so as to make the victim's refusal to consent genuine and real and so as to reasonably make known to the actor the victim's refusal to consent; and
- (c) A victim need not resist verbally or physically where it would be useless or futile to do so; and

Force or threat of force is defined as (a) the use of physical force which overcomes the victim's resistance or (b) the threat of physical force, express or implied, against the victim or a third person that places the victim in fear of death or in fear of serious personal injury to the victim or a third person where the victim reasonably believes that the actor has the present or future ability to execute the threat.

Further, pursuant to *Neb. Rev. Stat. § 28-319.01*, a person is guilty of first-degree sexual assault of a child when a person:

- (a) subjects another person under twelve years of age to sexual penetration and the actor is at least nineteen years of age or older; or
- (b) When he or she subjects another person who is at least twelve years of age but less than sixteen years of age to sexual penetration and the actor is twenty-five years of age or older.

Under *Neb. Rev. Stat. §28-320.01*, a person is guilty of second or third degree sexual assault of a child when a person subjects another person fourteen years of age or younger to sexual contact and the actor is at least nineteen years of age or older.

Finally, according to *Neb. Rev. Stat. § 28-320* a person is guilty of second or third degree assault when any person subjects another person to sexual contact:

- (a) without consent of the victim, or
- (b) who knew or should have known that the victim was physically or mentally incapable of resisting or appraising the nature of (their) conduct

At the heart of consent is the concept that every person has a right to personal sovereignty: the right not to be acted upon by someone else in a sexual manner unless given clear permission to do so. Connected with this concept is the notion that consent may be broad or narrow and can be limited. Consent to one form of sexual activity does not automatically imply consent to other forms of sexual activity.

Falls City

Falls City Police Department

2307 Barada Street, Falls City, NE 68355
(402) 245-4422

Richardson County Sheriff's Office

65086 706 Trail, Falls City, NE 68355
(402) 245-2479

Nebraska City

Nebraska City Police Department

1518 Central Ave, Nebraska City, NE 68410
(402) 873-6666

Otoe County Sheriff's Office

1021 Central Ave, Nebraska City, NE 68410
(402) 873-9560

Plattsmouth

Plattsmouth Police Department

336 Main Street, Plattsmouth, NE 68048
(402) 296-3311

Cass County Sheriff's Office

336 Main Street, Plattsmouth, NE 68048
(402) 296-9370

Wahoo

Wahoo Police Department

605 N Broadway Street, Wahoo, NE 68066

Saunders County Sheriff's Office

