

TEXAS SOUTHMOST COLLEGE
TITLE IX
SEXUAL HARASSMENT
POLICIES AND PROCEDURES

IX.01. General Statement of Purpose

It is the policy of Texas Southmost College to provide an educational, employment and business environment free of discrimination based on race, creed, color, national origin, citizenship status, age, disability, pregnancy, religion, gender, sexual orientation, gender expression or identity, genetic information, marital status or veteran status. Trustees, administrators, faculty, staff and other agents of the College will not engage in conduct constituting unlawful harassment or discrimination.

The College will promptly investigate all allegations of harassment and discrimination and take appropriate disciplinary action against individuals who engage in prohibited conduct. Disciplinary action may include dismissal of employees, expulsion of students and removal of visitors. The policy against discrimination applies to all programs and activities, including:

- Admission to programs of study
- Access to enrollment in courses
- Career placement services
- Counseling and guidance materials, tests and practices
- Technical education
- Physical education
- Graduation requirements
- Student rules, regulations and benefits
- Treatment as a married and/or pregnant student
- Housing
- Financial assistance
- Health services
- School-sponsored extracurricular activities
- Other aid, benefits or services

These rules apply to harassment or discrimination that occurs in any program or activity under the substantial control of the College, whether the activity or program is on campus or off campus. Additionally, these rules apply when off-campus harassment or discrimination causes continuing effects on campus.

All administrators, faculty and staff are encouraged to promptly report incidents of discrimination, harassment, and violence. Additionally, the College has designated certain College employees as responsible officials who have mandatory reporting duties. The following employees have a duty to report alleged instances of unlawful discrimination or harassment that come to their attention:

- President, Vice Presidents, and Deans
- Registrar
- Faculty and Department Chairs
- Compliance Officer
- Police Department personnel
- Counselors
- Risk Management personnel

- Human Resources personnel
- Directors and Managers

The College has appointed a Title IX Coordinator, Investigator(s), and Hearing Officer(s) to facilitate the College's compliance with state and federal laws prohibiting discrimination. A list of the team is found in Section IX.04.02 of Texas Southmost College Title IX Campus Sexual Misconduct Policy.

IX.02. Scope of this Procedure

This procedure applies to all harassment or discrimination complaints based on a protected status except those involving sexual harassment, sexual assault, domestic violence, dating violence or stalking. Complaints involving sexual harassment, sexual assault, domestic violence, dating violence or stalking are addressed in Complaint Procedure 400. Discriminatory harassment is also a violation of the Code of Student Conduct as referenced in section 3.2.3.

This procedure, however, does apply to sexual discrimination complaints, such as a complaint alleging denial of admission into a program because of gender. In the event that a sexual discrimination complaint overlaps with a sexual harassment complaint, or in the event it is difficult to determine whether a sexual discrimination complaint encompasses sexual harassment, Procedure 400 will be used.

IX.03. What is Discrimination?

Discrimination is the act of treating similarly situated persons differently based on their race, color, national origin, religion, sex, disability, age, veteran or military status, genetic information or any other basis protected by law.

For students, this prohibition applies to College operations and activities such as admission, housing, discipline, counseling, scholarship and loan programs, co-curricular experiences and athletics.

IX.04. What is Discriminatory Harassment?

Discriminatory harassment is physical, verbal or nonverbal conduct directed at a person because of his or her race, color, national origin, sex (gender), religion, disability, age, veteran status, genetic information or any other protected status and that is so severe, persistent or pervasive that the conduct:

1. Affects a person's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, hostile or offensive educational environment;
2. Has the purpose or effect of substantially or unreasonably interfering with the student's academic performance or an employee's work performance; or
3. Otherwise adversely affects a person's educational or employment opportunities.

Examples of prohibited harassment include, but are not limited to, offensive or derogatory comments, jokes or slurs because of the individual's protected status or because of the individual's need for an accommodation based on disability or religion; actions that are designed to humiliate or embarrass; physical aggression or assault; display of graffiti or printed material promoting racial, ethnic or other negative stereotypes; or other kinds of aggressive conduct such as theft or damage to property when motivated by the individual's protected status.

IX.05. Complaint Process

Students may use this procedure to file a complaint against another a student, a College employee, College contractors or third parties who are visiting the College or participating in a College activity.

A student may, at any time, personally approach the individual whose conduct is offensive, unwelcome or intimidating and request that such conduct stop. However, if this action is not feasible or unsuccessful, or if a student feels uncomfortable taking this approach, the student may seek an informal or formal resolution at any time. No student is ever required to make a report to the person who is engaging in discrimination or harassment.

A student may seek resolution or general information about this complaint procedure by contacting any member of the Title IX Coordinator Team.

Although students may file a complaint at any time, the College encourages students to report their concerns as soon as possible after the alleged incident(s) so that prompt action can be taken to investigate and resolve the complaint. A delay in reporting may result in a loss of evidence or witness availability. Students are encouraged to file complaints during the same semester that the alleged incidents occurred or within 30 days of the conclusion of the semester.

Content of complaint: Students are encouraged to submit written complaints that describe all incident(s) or action(s) considered by the reporting party to be harassing, discriminatory, or violent. Reporting parties should provide the following information:

- Contact information, including address, telephone and email;
- Name of person(s) directly responsible for alleged violation(s);
- Date(s) and place(s) of alleged violations;
- Nature of alleged violation(s);
- Detailed description of the specific conduct that is the basis of alleged violation(s);
- Copies of documents, emails, text messages, photos or other physical evidence pertaining to the alleged violation(s);
- Names of any witnesses to alleged violation(s);
- Action requested to resolve the situation;
- Reporting party's signature and date of filing; and
- Any other relevant information.

The student's failure to provide a written complaint or to provide the information requested above may adversely impact of the College to conduct a complete and thorough investigation and may limit the College's ability to take appropriate corrective action.

Complaints alleging misconduct by a student shall be filed with any member of the Title IX Team who addresses student concerns.

Complaints alleging misconduct by an employee or campus visitor shall be filed with any member of the Title IX/Coordinator Prevention Team or the Director of Human Resources who addresses employee concerns.

To ensure that all student complaints are properly processed, any College administrator who receives a complaint under this procedure shall promptly notify [Felix Recio, Title IX Coordinator, 956-295-3486](mailto:Felix.Recio@college.edu).

The Title IX Coordinator or designee will evaluate the complaint to determine whether it is covered by this procedure. A formal investigation will be initiated if a complaint is within the scope of this policy and articulates sufficient specific facts, which if determined to be true, would support a finding that the College's policy was violated. The College may decline to process a complaint under a variety of circumstances, including (i) the complaint is vague and does not describe conduct covered by this procedure; (ii) the student

declines to cooperate in the College's investigation; or (iii) the complaint has been withdrawn or the requested remedy has already been implemented or was offered and rejected. If the College declines to process a complaint pursuant to this procedure, the College shall send the student a written notification explaining the reasons.

If the Compliance & Judicial Affairs office proceeds with a complaint investigation, the Title IX Coordinator or designee shall determine whether interim action is needed pending completion of an investigation (e.g., a no-contact order, temporary reassignment or suspension). The Title IX Coordinator or designee will assign an impartial investigator to investigate the complaint.

In cases in which the respondent is a student, the investigator typically will be the Dean of Compliance & Judicial Affairs or Compliance Officer. In cases in which the respondent is an employee, the Employee Relations department typically will conduct the investigation. In some instances, a team from Compliance & Judicial Affairs and Employee Relations will conduct the investigation together.

The Title IX Coordinator or designee shall notify the reporting party and the respondent of the name and contact information of the investigator(s). The respondent shall receive written notice of the allegations and shall be informed of his or her right to submit a written response to the allegations within 10 school days, unless unusual circumstances warrant additional time. The written notice shall inform the respondent that retaliation against the reporting party is prohibited and may result in disciplinary action.

Barring unusual circumstances (e.g., multiple reporting parties, a complaint filed the day before the winter break), the investigation ordinarily will be completed within 60 calendar days. An investigation shall commence even if a law enforcement agency is conducting a separate criminal investigation against the respondent. However, the College's investigation may be temporarily delayed when requested by police investigators or the District Attorney's Office. If the College's investigation is temporarily delayed due to a pending criminal investigation, the reporting party and respondent will be notified.

The investigator shall interview the reporting party, the respondent and other individuals determined by the investigator to possess relevant information. The reporting party and the respondent each will be permitted to provide documentation or other tangible evidence to the investigator.

During meetings pertaining to the investigation and complaint process, the reporting party and the respondent may be represented or accompanied by an advisor. Advisors, however, may not actively participate in meetings or interview witnesses.

The investigator shall prepare a written report that summarizes the findings and states whether a preponderance of the evidence establishes a violation of the College's policies. The investigator will consider the totality of circumstances, including the context and duration of the conduct and its severity. Facts will be considered on the basis of what is reasonable to persons of ordinary sensitivity.

If the respondent is a student, the investigation report shall be submitted to the Title IX Coordinator. If the respondent is an employee or visitor, the investigation report shall be submitted to the appropriate the Director of Human Resources. If a complaint is directed at an administrator who would otherwise act on the complaint, then the function assigned to that person will be assigned to another person.

The Title IX Coordinator will permit the respondent and the reporting party to review the investigation report. Student identifiable information, if confidential by law, will be redacted. The respondent and the reporting party will each have 10 working days to provide comments and suggested corrections to the Title IX Coordinator. Within three working days of the date the Title IX Coordinator received or should have received the party's responses to the investigation report, he or she will determine whether the allegations rise to the level of sexual violence.

If the investigation does not result in the assignment of disciplinary consequences against the respondent, the reporting party may submit a written appeal to the Provost or designee. The Provost or designee shall provide written notice to the respondent of the appeal. The Provost or designee shall review the record and issue a written response within 20 school days. A copy of the response shall be provided to both parties.

If the respondent is a student and is proposed for major discipline (expulsion, a suspension exceeding five days or revocation or withdrawal of a degree), he or she may request a hearing to challenge the charge and the sanction under the Student Code of Conduct. If the proposed discipline involves a consequence that is less than expulsion, a suspension exceeding five days or revocation or withdrawal of a degree, the student may request a hearing under the Student Code of Conduct. If the student desires to challenge the sanction but not the charge, then the student may seek review by filing a request with the Provost or designee. The Provost or designee shall review the record and issue a written response within 20 school days. A copy of the response shall be provided to both parties.

If the respondent is an employee and is assigned a disciplinary consequence, he or she may seek review in accordance with the employment policies of the College.

Every student has the right to file a complaint or to participate in an investigation without being subjected to retaliation. Retaliation is an adverse action taken by an employee or student against an individual who makes a good faith report of discrimination, harassment or sexual misconduct or who participates in an investigation pertaining to a complaint of discrimination, harassment or sexual misconduct. For an action or decision to be considered adverse, it must be materially adverse and be of the type that would dissuade a reasonable person from exercising his or her rights to file a complaint or to participate in an investigation. Unlawful retaliation does not include petty slights or annoyances. Any employee or student who engages in retaliation may be subject to disciplinary action.

Students who have experienced discrimination or harassment based on a protected status may file a complaint with the U.S. Department of Education. (www2.ed.gov/about/offices/list/ocr/docs/howto.html)

