

TEXAS SOUTHMOST COLLEGE

TITLE IX

Campus Sexual Misconduct POLICY

IX.01 General Statement of Purpose

Texas Southmost College prohibits all employees and students from engaging in sexual harassment, sexual violence, and other behaviors of a sexual nature that are hostile, unwelcome, or intimidating. This prohibition encompasses conduct occurring on-campus or in connection with a College activity or program. Prohibited conduct that occurs off- campus is also encompassed by these rules if the conduct creates a sexually hostile environment on campus or in a college activity or program or adversely affects another student's educational opportunities at the College.

Students who believe that they have been subjected to sexual misconduct (sexual assault, sexual harassment, dating violence, domestic violence, intimate partner violence or stalking) are encouraged to report their complaint to the TSC Campus Police Department (956-295-3700) as soon as possible after the incident occurs. Reports of sexual misconduct involving another student also may be directed to the Office Title IX Coordinator by submitting a complaint to felix.recio@tsc.edu or by calling 956-295-3486. Reports of sexual misconduct involving an employee should be reported to the Human Resources Department by calling 956-295-3770.

Existing disciplinary and complaint procedures, found in the Student Handbook, will serve as the framework for resolving allegations of sexual misconduct against students. Students found guilty of sexual misconduct will be subject to campus disciplinary sanctions. If an investigation substantiates that an employee engaged in sexual misconduct, the employee is subject to disciplinary action, up to and including termination, as provided in Board policy. In addition, any employee or student may face criminal prosecution for violations of applicable state and federal laws.

During an investigation or any disciplinary proceeding, the rights of both the respondent and the reporting party shall be respected, and the confidentiality of proceedings will be maintained to the extent permitted by law. The existence of the College's policies and procedures is not intended to diminish or alter the rights that the respondent and reporting party have under civil law or the criminal law.

All sexual misconduct policies and complaint procedures can be found in the Code of Student Conduct and the Complaint Procedures sections of the Student Handbook.

In accordance with Texas House Bill No. 699 and the Campus SaVE Act/Clery Act, Texas Southmost College provides an orientation/training on the College's campus sexual misconduct policy for incoming freshman during their first term of enrollment.

Definitions of Prohibited Behavior

IX.02.1 Sexual Assault: Intentionally or knowingly causing physical sexual contact or sexual penetration of another person without that person's consent. "Sexual contact" includes any touching of the anus, breast, or any part of the genitals of another person with intent to arouse or gratify the sexual desire of any person. Sexual assault is without consent of the other person if the actor compels the other person to submit or participate by use of physical force or violence, or threat of force or violence, and the other person believes the actor has the present ability to execute the threat; or the other person cannot consent due to age, mental impairment, or other circumstance.

IX.02.2 Sexual Harassment: Sexual harassment includes, but is not limited to, unwelcome sexual advances, unwelcome requests for sexual favors, unwelcome verbal comments of a sexual nature, and unwelcome physical contact or touching of a sexual nature. Sexual harassment is wrongful regardless of whether the parties are of the same sex or of the opposite sex.

IX.02.3 Dating Violence: Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

IX.02.4 Domestic Violence: The term "domestic violence" refers to a pattern of abusive behavior between two individuals formerly or currently in an intimate relationship, including through marriage, cohabitation, dating, or within a familial or household arrangement. Abuse may be in the form of physical assault, sexual assault, bodily injury, emotional distress, physical endangerment, or when the imminent threat of any of these instances puts the victim in fear of their occurrence. The term encompasses acts 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, and by a person similarly situated to a spouse or the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

IX.02.5 Intimate Partner Violence: Physical violence, sexual violence, stalking and psychological aggression (including coercive acts) by a current or former intimate partner.

IX.02.6 Stalking: a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or suffer substantial emotional distress. "Course of conduct" means two more acts, including, but not limited to, acts in which the stalker directly or indirectly, or through third parties, by any action, method, device or means.

Complaint Procedures: Discrimination, Harassment, Sexual Violence, Domestic Violence, Dating Violence, and Stalking

IX.03 Complaint Processes

Impartiality of College Officials

To facilitate prompt responses to grievances or grievance appeals and to preclude conflicts of interest, the President may designate another College official to consider a grievance or grievance appeal and to render a decision.

Retaliation Prohibited

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.

IX.03.1 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.

IX.03.2 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
- Competitive athletics
- 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

IX.03.3 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.

IX.03.4 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, Provosts and Deans
- Registrar
- Faculty and Department Chairs
- Compliance Officer
- Police Department personnel
- Counselors
- Risk Management personnel
- Human Resources personnel
- Athletics personnel
- Directors and Managers

IX.03.5 The College has appointed a Title IX Coordinator Team to facilitate the College's compliance with state and federal laws prohibiting discrimination. A list of the team is found in Section 400.2 of Complaint Procedure 400.

IX.03.6 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

Discriminatory harassment is also a violation of the Code of Student Conduct.

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 IX.01 will be used.

IX.03.7 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.03.8 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.03.9 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's Team.

IX.03.10 Formal Complaint Process

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.

IX.03.10.01 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.

IX.03.11 Where to file the Complaint

Complaints alleging misconduct by a student shall be filed with any member of the Title IX Coordinator 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 Team or 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 the appropriate Title IX Coordinator in writing.

Title IX Coordinating Team and Title IX coordinator;

Felix Recio 80 Fort Brown, South 278,

felix.recio@tsc.edu, 956-295-3486

IX.03.11.01 The Title IX Coordinator or designee will promptly 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.

IX.03.11.02 If the Title IX Coordinator 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.

IX.03.11.03 In cases in which the respondent is a student, the investigator typically will be a Title IX Investigator. In cases in which the respondent is an employee, the Human Resources Employee Relations department typically will conduct the investigation. In some instances, a team consisting of the Title IX Coordinator and the Human Resources will conduct the investigation together.

IX.03.11.04 The Title IX Coordinator 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.

IX.03.12 Processing the Complaint

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.

IX.03.12.01 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.

IX.03.12.02 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.

IX.03.12.03 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.

IX.03.12.04 If the respondent is a student, the preliminary findings shall be submitted to the Title IX Coordinator. If the respondent is an employee or visitor, the preliminary findings shall be submitted to the appropriate leader, which ordinarily will be the Executive Director of Human Resources or his/her assignee. 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.

IX.03.12.05 The Title IX Coordinator will permit the respondent and the reporting party to review the preliminary findings. 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. After receiving the comments from the parties (or if no comments are submitted), the Title IX coordinator will confer with the investigator to discuss the findings and to review the investigation record. The Title IX Coordinator shall determine whether additional investigation is needed; whether to dismiss the complaint due to insufficient evidence; or whether to proceed with a disciplinary consequence or other corrective action. The action shall be reasonably calculated to prevent a reoccurrence of the misconduct and/or to ameliorate its impact. The Title IX's final determination shall be sent to the respondent, and the reporting party. The final determination may be redacted to protect student information that is confidential by law under the Family Educational Rights & Privacy Act. All deadlines in this procedure may be extended by mutual agreement or for good cause.

IX.03.13 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 President or designee. The President or designee shall provide written notice to the respondent of the appeal. The President 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 according to 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 President. The President 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.

IX.03.14 Retaliation Prohibited

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.

IX.03.15 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/doc/howto.html)

IX.04 COMPLAINT PROCEDURE IX.04: COMPLAINTS ALLEGING SEXUAL HARASSMENT, SEXUAL ASSAULT, DATING VIOLENCE, DOMESTIC VIOLENCE, INTIMATE PARTNER VIOLENCE AND STALKING

IX.04.01 Scope

This procedure addresses sexual harassment, sexual assault, dating violence, domestic violence, intimate partner violence and stalking (see Sections 3.3 and 3.6 of the Code of Student Conduct). 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. For ease of reference, the phrase “sexual misconduct” occasionally is used to encompass all categories addressed in this procedure.

Prohibited conduct may be verbal or physical, and proof of force or physical injury is not required. The parties may be the opposite sex or the same sex. In determining whether sanctionable conduct has occurred, the College may consider the on-campus impact of incidents that occurred off campus.

This complaint procedure constitutes a grievance procedure required by Title IX of the Education Amendments of 1972. As used in this procedure, “complaint” and “grievance” are synonymous.

Title IX is a federal statute that prohibits discrimination on the basis of gender in education programs. The College has appointed Title IX Coordinators who facilitate the College’s compliance with Title IX and other laws that prohibit discrimination. These officials can assist students with claims of sexual harassment, sexual assault, dating violence, domestic violence and stalking.

IX.04.02 Title IX Team

Felix Recio, Title IX Coordinator

80 Fort Brown, South 278

Felix.recio@tsc.edu

956-295-3486, 956-295-3770

Dr. Brian McCormack, Title IX Hearing Officer

80 Fort Brown, South 224

Brian.mccormack@tsc.edu

956-295-3585

Dr. Gene Conners, Director of Human Resources

80 Fort Brown, Tandy Hall 105

Gene.conners@tsc.edu

956-295-3770

Charles R. Flores, Human Resources Generalist

80 Fort Brown, Tandy Hall 105

Charles.flores@tsc.edu

956-295-3777

ReneValdez, Student Life

80 Fort Brown, Camille Lightner Room 103

Rene.valdez@tsc.edu

956-295-3414

IX.04.03 In addition to the Title IX Coordinators, numerous other College employees are designated as “responsible officials” who have reporting duties under Title IX. The following employees have a duty to report alleged instances of sexual harassment and sexual misconduct:

1. President, Vice Presidents, Provosts and Deans
2. Registrar
3. Faculty Department Chairs
4. Police Department personnel
5. Counselors
6. Risk Management
7. Human Resources personnel
8. Athletic/physical education
9. Directors and Managers

IX.04.04 Reporting Options

Students have several options when reporting sexual harassment, sexual assault, dating violence, domestic violence, intimate partner violence and stalking. They may seek informal guidance from college counselors or other college officials, or they may file a formal college grievance. Students also may file a report directly with the College police or any local law enforcement agency. Students are not required to file a police report in order to receive assistance from the College. Additionally, reporting an offense does not commit the student to pursuing further legal action. Students who desire assistance in order to make a police report may contact Armando Ponce, Executive Director of Student Life and civility, 956-295-3570, Vanessa Vasquez, Executive Director of Enrollment and Academic Support Services 956-295-3605 or the Title IX Coordinator 956-295-3486 or 956-295-3770.

IX.04.05 Assistance for victims

Students who have experienced sexual harassment, sexual assault, dating violence, domestic violence, intimate partner violence, stalking or other crimes may seek advice, assistance and resources from the Title IX Coordinator. Individuals within these offices can assist the complainant with accessing medical or counseling services, advocacy services, social support services, legal services and police services. Even in the absence of a formal complaint, the College may be able to provide assistance to the complainant with respect to his or her academic, living, transportation, or working situations. For example, a student might wish to explore changing a class or class time.

Contact information for Texas Southmost College Counseling Department:

956-295-3587 or 956-295-3417

Located at the Lightner Center Room 102A

Main Campus: 956-956-3600

Itecc Campus: 956-922-3444

Off-campus resources include the following:

Mujeres Unidas 1-800-580-4879

Friendship of Women Family Crisis Center 956-544-7412

Rape, Abuse & Incest National Network 1-800-656-4673

Valley Regional Medical Center 956-350-7000

Valley Baptist Medical Center 956-689-5400

IX.04.06 Confidential Communications:

In response to an act of sexual harassment or sexual assault, a victim may be unsure whom to contact for information about options and resources. Some victims may prefer a confidential consultation before deciding on a course of action. Most Texas Southmost College personnel will have a duty to report complaints that come to their attention. Below, this procedure addresses when confidentiality may be honored.

Confidential communications are those communications that cannot be disclosed to another person without the reporter's consent, except under very limited circumstances such as an imminent threat or danger to self or others. Victims may speak confidentially with a licensed professional counselor in the College's counseling center: Main Campus: 956-956-3600, ITECC Campus 956-922-3444, pastoral counselors in the community, medical personnel, licensed

social workers and victims' advocates. These individuals may assist victims in deciding whether to report, what options exist, and what resources are available. These individuals are not required to report incidents of sexual harassment, sexual assault, or sexual misconduct to the College's Title IX Coordinator.

Victims also may choose to speak confidentially with advisors, educational planners, and front-desk staff in the Educational Planning, Counseling, & Completion office. These individuals are not professional counselors but have been specially designated to serve as a resource where students may obtain information about this procedure and about support services. These individuals are not required to report the names of victims to the College's Title IX Coordinator. However, these individuals will be required to report de-identified information such as the date, time and nature of the incident. The purpose of this general reporting obligation is to enable the College to identify patterns or trends involving sexual harassment or violence.

IX.04.06 Non-Confidential Communications:

“Responsible employees” as listed in Section IX.03.4 may be required to report allegations of sexual harassment, sexual misconduct or sexual assault, even if they have been requested by the person confiding in them to keep the discussion confidential. Non-confidential communications consist of those communications that will be disseminated to the Title IX Coordinator and others on a need-to-know basis in order to ensure that necessary steps are taken to protect the community as a whole and appropriate disciplinary measures are considered and taken. The employees identified in Section IX.03.04 have a reporting obligation. They must report to the Title IX Coordinator all relevant details of the occurrence, including names of those involved and relevant facts including date, time and location.

When receiving a sexual misconduct report from an alleged victim, responsible employees shall notify the victim that (i) the employee has an obligation to report the complaint to the Title IX Coordinator and (ii) the alleged victim may request confidentiality, which will be evaluated by the Title IX Coordinator. The responsible employee shall also inform the alleged victim that he or she may speak confidentially with a licensed professional counselor, pastoral counselor, or others identified in this procedure and that those communications will not be reported to the Title IX Coordinator without the alleged victim's consent.

IX.04.07 Requests for Confidentiality:

To the greatest extent possible, the College shall maintain the confidentiality of information and records related to investigations of complaints based on sexual harassment and sexual misconduct. Limited disclosures may be necessary in order to conduct a thorough investigation and comply with applicable law. A Title IX Coordinator will evaluate a student's request for confidentiality in the context of the College's responsibility to provide a safe and nondiscriminatory environment for the entire college community. The Title IX Coordinator will make every effort to respect a student's request for confidentiality; however, there are situations in which the College must override a student's request for confidentiality in order to meet its Title IX obligations. When weighing a student's request for confidentiality that could preclude a meaningful investigation or potential discipline of the alleged perpetrator, the College will

consider a range of factors. These factors include, but are not limited to, (i) circumstances that suggest there is an increased risk of the alleged perpetrator committing additional acts of sexual violence or other violence (e.g., whether there have been other sexual violence complaints about the same alleged perpetrator, whether the alleged perpetrator has a history of arrests, etc.); (ii) whether the sexual violence was perpetrated with a weapon; (iii) the age of the student subjected to the sexual violence; and (iv) whether the school possesses other means to obtain relevant evidence (e.g., security cameras or personnel, physical evidence).

If the College determines that it must disclose a complainant's identity to an alleged perpetrator, it will inform the complainant prior to making this disclosure and take whatever interim measures are necessary to protect the complainant and ensure the safety of others.

Finally, while federal law requires Texas Southmost College to include certain reported incidents of sexual assault, domestic violence, dating violence and stalking among its annual campus crime statistics, such information will be reported in a manner that does not identify victims.

IX.04.08 Complaints involving victims under the age of 18:

Complaints involving abuse of minors must be reported to Children's Protective Services or other law enforcement agencies. The phone number for the Texas Department of Family and Protective Services is 1-800-252-5400.

IX.05 Evidence Preservation in Sexual Assault Cases/Medical Exams

If a student experiences a sexual assault or other criminal offense, it is important that the student take action to preserve evidence. Such evidence will be helpful in the event that the victim seeks a protective order or desires to pursue a criminal prosecution. Victims of sexual assault should not wash, shower, bathe or change clothes prior to a medical exam or treatment. If the victim needs to remove an item of clothing, it should be placed in a paper bag (not a plastic bag). Instead of changing clothes, the victim may separately bring a change of clothing to the hospital to wear after the examination. Evidence of violence, such as visible injuries or bruising or damage to a vehicle, will need to be photographed. Likewise, evidence of emails, text messages or phone messages must be preserved and not deleted or altered.

Students who have just experienced a sexual assault or other sexual violence should call 911 and locate a safe place. If the incident occurred on campus, the student should contact Campus Police. Campus Police assistance is available 24 hours a day. Campus personnel may assist the victim in obtaining transportation to a hospital or clinic, a police department or other location. Prompt medical attention in a case of recent assault is necessary to document and treat any injuries and screen for certain medical conditions or transmitted diseases. Victims may receive a medical exam with or without police involvement. A nurse examiner may perform a Sexual Assault Forensic Exam (SAFE). Such exams generally are available in hospital emergency rooms.

IX.06 Filing a Complaint

IX.06.01 Informal Complaint.

A student may, at any time, personally address the individual whose conduct is offensive, unwelcome or intimidating and request that such conduct stop. However, particularly in cases of sexual violence, students are discouraged from contacting the alleged offender. Instead, students are encouraged to meet with a counselor or any member of the Title IX/Discrimination Prevention Team to discuss the student's options. No student is required to contact the alleged offender regarding the offender's alleged conduct.

A student may seek informal resolution by contacting the appropriate Dean or any member of the Title IX/Discrimination Prevention Team. Informal resolution may include a meeting between the Compliance and Judicial Affairs representative and the accused to reinforce the requirements of the College's policy against harassment. Informal resolution is not a precondition to filing a formal complaint. Additionally, if informal resolution is undesirable or ineffective, then the student may initiate a formal complaint at any time. Mediation shall not be employed in any instances involving sexual violence.

IX.06.02 Formal Complaint

Content of complaint: 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.

- Students are encouraged to submit written complaints that describe all incident(s) or action(s) considered by the complainant to be harassing or violent. Complainants should provide the following information:
- Contact information, including address, telephone and e-mail;
- Name of person(s) directly responsible for alleged violation(s);
- Date(s) and place(s) of alleged violations;
- Nature of alleged violation(s) as defined in this policy;
- 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;
- Complainant'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.

IX.07 Where to file the complaint:

Complaints alleging misconduct by a student shall be filed with any member of the Title IX Coordinator 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 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 the Title IX Coordinator and the Human Resources Director in writing.

Title IX Coordinator Team:

Felix Recio, Title IX Coordinator 956-295-3486 or 956-295-3770

Dr. Brian McCormack, Hearing and Decision maker, 956-295-3585

Dr. Gene Conners, Director Human Resources, 956-295-3370

IX.07.01 Processing and Investigating the complaint

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 Title IX Coordinator 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 shall appoint an impartial investigator who is not a member of the affected department (e.g., a complaint by a student athlete will be investigated by someone outside the athletic department) to investigate the complaint. In cases in which the accused is a student, the investigator typically will be the Title IX Investigator. In cases in which the accused is an employee, the employee Human Resources department typically will conduct the investigation. In some cases the College could appointment outside professional investigation source(s).

The Title IX Coordinator or designee shall notify the complainant 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 05 school days, unless unusual circumstances warrant additional time. The written notice shall inform the respondent that retaliation against the complaining party is prohibited and may result in disciplinary action.

IX.07.02 Time Frame For Investigation

Barring unusual circumstances (e.g., multiple complainants, 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 complainant and respondent will be notified. All deadlines in this procedure may be extended by mutual agreement or for good cause.

IX.07.03 Interviews and Documentation

The investigator shall interview the complainant, the accused, and other individuals determined by the investigator to possess relevant information. The complainant and the accused each will be permitted to provide documentation or other tangible evidence to the investigator. The complainant and the accused may suggest witnesses to interview; however, the decision whether to interview is a matter of professional judgment for the investigator in light of the issues at hand, in light of the information already obtained in the investigation, and in light of the resources available.

IX.07.04 Interviews And Documentation

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

IX.07.05 Right To Representation

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.

IX.07.06 Investigative Reports

If the accused is a student, the preliminary findings shall be submitted to the Title IX Coordinator or designee. If the respondent is an employee or visitor, the preliminary findings shall be submitted to the appropriate leader, which ordinarily will be 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 or assign(s) will permit the respondent and the complaining student to review the preliminary findings (with a copy to the Title IX Coordinator). Student identifiable information, if confidential by law, will be redacted. The respondent and the complaining student will each have ten (10) working days to provide comments and suggested corrections to the Title IX Coordinator. After receiving the comments from the parties (or if no comments are submitted), the Title IX Coordinator will confer with the investigator to discuss the preliminary findings and to review the investigation record. The Title IX Coordinator shall determine whether additional investigation is needed; whether to dismiss the complaint due to insufficient evidence; or whether to proceed with a disciplinary consequence or other corrective action. The action shall be reasonably calculated to prevent a reoccurrence of the misconduct and/or to ameliorate its impact. The Title IX Coordinator's final determination shall be sent to the respondent, the complaining student. The final determination may be redacted to protect student information that is confidential by law under the Family Educational Rights & Privacy Act.

IX.07.07 Review and Appeals

If the investigation does not result in the assignment of disciplinary consequences against the respondent, the complaining student may submit a written appeal to the President or designee. The appeal must be submitted within five school days of receiving notice of the disposition of the complaint. The President or designee shall provide written notice to the accused of the appeal. The appeal will be based on the written record. Both parties will have five school days to submit written comments. The President or designee shall review the record and issue a written response within twenty (20) school days. A copy 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 sanction under the provisions of 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 respondent may request a hearing under provisions of the Student Code of Conduct. If the respondent or the complainant is dissatisfied with the outcome of a disciplinary hearing, either (or both) may appeal the adverse ruling, the appeal shall be heard by an unbiased Vice President or Divisional Dean of the College. The appeal must be submitted within five (5) school days of receiving notice of the disposition of the complaint. The appeal will be based on the written record. The designee(s) shall review the record and issue a written response within twenty (20) school days. A copy shall be provided to both parties.

If the respondent waives the right to contest the charges, the President or assigns shall, subject to the Family Educational Rights & Privacy Act, notify the Title IX Coordinator and the complaining party of the disposition of the charge against the respondent. The notice to the complaining party shall be issued simultaneously with the notice issued to the respondent. The notice shall inform the complaining party that both the complaining party and the respondent have a right to appeal the sanction to a Vice President or designee(s).

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.

Any disclosure of the disposition or results from any proceeding involving a student will be governed by the Family Educational Rights and Privacy Act (FERPA) and other applicable law.

IX.07.08 Victim Rights During Disciplinary Proceedings

In disciplinary hearings and appeals involving allegations of sexual harassment, sexual assault, dating violence, stalking, intimate partner violence or domestic violence (see Sections 3.3 and 3.6), the Compliance and Judicial Affairs office presenting the case shall, subject to the Family Educational Rights & Privacy Act, notify the Title IX Coordinator and the complainant that the respondent has requested a hearing and the date and time of the hearing. The complainant shall receive written notice of the following rights and options:

- (a) the right to attend and participate in the hearing;
- (b) the right to have his or her past sexual history excluded from evidence;
- (c) the right to provide testimony at the hearing in a manner that does not require the complainant to directly confront or to be directly questioned by the respondent while preserving the respondent's right to challenge such testimony;
- (d) the right to receive assistance from the College's Title IX Coordinator;
- (e) the right to provide input to the Compliance and Judicial Affairs representative presenting the case regarding potential witnesses, evidence and argument that may be presented at the hearing or during a subsequent appeal;
- (f) the right to know the outcome of the hearing; and
- (g) the right to information regarding the procedure for appealing the final disposition.

The notice to the complaining party shall include a copy of the applicable disciplinary procedure. Additionally, the notice shall inform the complaining party of his or her right to be accompanied during any disciplinary proceeding by an advisor of his or her choice. If the complaining party intends to attend the hearing and/or to bring an advisor, he or she shall notify the Title IX Coordinator or designee in writing at least three (3) business days prior to the hearing. The student's advisor may not cross-examine witnesses or otherwise participate in the proceeding. An advisor may not be a witness in the matter. The Title IX or designee shall notify the respondent and the chairperson of the President or assigns of the complaining party's intent to attend the hearing.

IX.07.09 Retaliation Prohibited

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.

IX.07.10 Office for Civil Rights

Students may file complaints of discrimination and harassment with the Office for Civil Rights, Department of Education, Washington, D.C., at the same time they file a grievance, during or after use of the grievance process, or without using the grievance process at all. If a student files a complaint with the Office for Civil Rights, the complaint must be filed no later than 180 days after the occurrence of the possible discrimination. Contact information: U.S. Department of Education, 1999 Bryan Street, Suite 1620, Dallas, TX 75201-6810; Telephone: (214) 661-9600; Facsimile: (214) 661-9587; [Email: OCR.Dallas@ed.gov](mailto:OCR.Dallas@ed.gov).

IX.07.11 Campus Sex Crimes Prevention Act

In compliance with the Campus Sex Crimes Prevention Act (Section 1601 of “Public Law 106-386”) and the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, all persons required to register as part of the State of Texas’ Sex Offender Registration Program are required to provide notice of their presence on campus to the Campus Police Department. Information on registered sex offenders can be obtained through the Texas Department of Public Safety Crimes Record Service at: <http://records.txdps.state.tx.us/soSearch/default.cfm>.