
Note: This policy addresses complaints of sex and gender discrimination, sexual harassment, sexual violence, dating violence, domestic violence, stalking, and retaliation targeting employees. For additional legally referenced material relating to discrimination, harassment, and retaliation, see DAA(LEGAL). For sex discrimination, sexual harassment, sexual violence, dating violence, domestic violence, stalking, and retaliation *targeting students*, see FFDA.

For Title IX procedures please [click here for the full PDF](#).

In compliance with the State of Texas Education Code Section 1, Section 51.9363, this policy is required to be reviewed by South Plains College each biennium, and with approval of the Board of Regents, revise the policy as necessary.

**Statement of
Nondiscrimination**

The College prohibits discrimination, including harassment, against any employee on the basis of sex. Retaliation against anyone involved in the complaint process is a violation of College policy and is prohibited.

Definitions

Employee

Solely for purposes of this policy, the term “employee” includes former employees, applicants for employment, and unpaid interns.

Discrimination

Discrimination against an employee is defined as conduct directed at an employee on the basis of sex that adversely affects the employee’s employment.

In accordance with law, discrimination on the basis of sex includes discrimination on the basis of biological sex, gender identity, sexual orientation, gender stereotypes, or any other prohibited basis related to sex.

Sexual Harassment

The Department of Education’s Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the State of Texas regard Sexual Harassment, a specific form of discriminatory harassment, as an unlawful discriminatory practice. South Plains College provides student and on rare occasion employee temporary housing. Therefore, if the sexual harassment occurs in an SPC-owned residence with a residential Complainant, then the HUD/FHA definition of sexual harassment, which tracks the Title VII definition below, will also apply.

Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity/expression of those involved.

South Plains College has adopted the following definitions of Sexual Harassment in order to address the unique environment of an academic community. Two definitions are required by federal law, and the others by state law. While they overlap, they are not identical, and they each apply as noted.

Sexual harassment is a form of sex discrimination defined as:

- unwelcome sexual advances;
- requests for sexual favors;
- sexually motivated physical, verbal, or nonverbal conduct; or
- other conduct or communication of a sexual nature when:
 - 1) submission to the advance, request, or conduct is made a term or condition of an individual's employment, either explicitly or implicitly;
 - 2) submission to or rejection of the advance, request, or conduct by an individual is used as the basis for a decision affecting the individual's employment;
 - 3) the advance, request, or conduct has the purpose or effect of unreasonably interfering with an individual's work performance; or
 - 4) the advance, request, or conduct is so severe, persistent, or pervasive that it has the purpose or effect of unreasonably interfering with the employee's work performance or creates an intimidating, threatening, hostile, or offensive work environment.

Sexual harassment can occur in two types of workplace environmental instances: quid pro quo or hostile environment harassment.

- Quid Pro Quo occurs when an employee agent, or other person authorized by South Plains College, to provide an aid, benefit, or service of the College's program or activity, explicitly or implicitly conditioning the provision of such aid, benefit, or service, on a person's participation in unwelcome sexual conduct.
- Hostile Environment Harassment is unwelcome sex-based conduct, that based on the totality of the circumstances, is subjectively (by Complainant) and objectively (by reasonable person standard), and is so severe or pervasive, pervasive that it effectively denies a person's ability to continue productivity as an employee.

South Plains College reserves the right to address offensive conduct and/or harassment that (1) does not rise to the level of creating a hostile environment, or (2) that is of a generic nature and not based on a protected characteristic. Addressing such conduct will not result in the imposition of discipline under College Policy, but may be addressed through respectful conversation, remedial actions, education, effective Alternative Resolution, and/or other Informal Resolution mechanisms.

For assistance with Alternative Resolution and other Informal Resolution techniques and approaches, refer to the procedure document for this policy or contact the Title IX Coordinator.

Sexual Violence

Sexual violence is a form of sexual harassment. Sexual violence includes physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the alleged victim's use of drugs or alcohol or due to an intellectual or other disability.

In order to claim a sexual violence has occurred, the claim be within one of the following classifications: rape, sodomy, sexual assault with an object, or fondling directed against another person, without the consent of the alleged victim, including instances where the alleged victim is incapable of giving consent; also, unlawful sexual intercourse.

Rape: Penetration, without the consent of the Complainant including instances where they are incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

Sodomy: Oral or anal penetration of the Complainant by the Respondent without the consent of the Complainant, including instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

Sexual Assault with an Object: Respondent's use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of the Complainant, without the consent of the Complainant, including instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

Fondling: The touching of the clothed or unclothed genitals, buttocks, groin, breasts, or other body parts of the Complainant by the Respondent without the consent of the Complainant, for the pur-

pose of sexual degradation, sexual gratification, or sexual humiliation. Or, the Respondent caused or directed the Complainant's intentional touching of the Respondent's clothed or unclothed genitals, buttocks, groin, breasts, or other body parts, without the consent of the Complainant, for the purpose of sexual degradation, sexual gratification, or sexual humiliation. or causing the Complainant to touch the Respondent's private body parts.

Incest: Non-forcible sexual intercourse, between persons who are related to each other, within the degrees wherein marriage is prohibited by Texas law.

Statutory Rape: Non-forcible sexual intercourse, with a person who is under the statutory age of consent in Texas, which is 17 years old, although if the alleged victim was at least 14 years old, it is not statutory rape if the other party was not more than three years older, not a registered sex offender, not a repeat offender, not prohibited from marrying or purporting to marry the minor, and not prohibited from living under the appearance of marriage with the minor.

Dating Violence

"Dating violence" means violence committed by the Respondent, who is or has been in a social relationship of a romantic or intimate nature with the Complainant where 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.

For the purposes of this definition dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

Domestic Violence

"Domestic violence" or "family violence" means violence on the basis of sex committed by:

- A current or former spouse or intimate partner of the Complainant;
- A person with whom the Complainant shares a child in common;
- A person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner;
- Any other member of the Complainant's family as defined by state law;
- Any other current or former member of the Complainant's household as defined by state law;

- A person in a dating relationship with the Complainant as defined by state law; or
- Any other person who acts against the Complainant in violation of the family violence laws of this state or the jurisdiction where the conduct occurs.

Stalking

“Stalking” means engaging in 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.

For the purposes of this definition:

1. “Course of conduct” means more than one incident and the conduct must be directed at a specific person. Stalking can occur in person or using technology, and the duration, frequency, and intensity of the conduct should be considered. Stalking tactics can include but are not limited to watching, following, using tracking devices, monitoring online activity, unwanted contact, property invasion or damage, hacking account, threats, violence, sabotage, and attacks. (Federal Register Vol 89, No. 83, 04/29/2024, p. 33523). Merely annoying conduct, even if repeated, is a nuisance, but is not typically chargeable as stalking.
2. “Reasonable person” means a reasonable person under similar circumstances and with similar identities to the Complainant.
3. “Substantial emotional distress” means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

Examples

Examples of sexual harassment of an employee may include sexual advances; touching intimate body parts; coercing or forcing a sexual act on another; jokes or conversations of a sexual nature; sexual assault as defined by law; offensive or derogatory language directed at another person's gender identity; and other sexually motivated conduct, communication, or contact.

Examples may also include forms of dating violence, domestic violence, or stalking, such as physical or sexual assaults; name-calling; put-downs; or threats directed at the employee, the employee's family members, or members of the employee's household; destroying the employee's property; threatening to commit suicide or homicide if the employee ends the relationship; tracking the employee; attempting to isolate the employee from friends and family; threatening an employee's spouse or partner; or encouraging others to engage in these behaviors.

*Sexual
Exploitation*

Sexual Exploitation, defined as taking non-consensual or abusive sexual advantage of another for their own benefit or for the benefit of anyone other than the person being exploited, and that conduct does not otherwise constitute Sexual Harassment under this Policy.

Examples of Sexual Exploitation include, but are not limited to:

- Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed)
- Invasion of sexual privacy (e.g., doxxing)
- Knowingly making an unwelcome disclosure of (or threatening disclosure) an individual's sexual orientation, gender identity, or gender expression
- Taking pictures, video, or audio recording of another in a sexual act, or in any other sexually related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity; or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity; or disseminating sexual pictures without the photographed person's consent), including the making or posting of non-consensual pornography
- Prostituting another person
- Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually transmitted disease (STD) or infection (STI), without informing the other person of the infection
- Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity
- Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections (e.g., spoofing)
- Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity
- Knowingly soliciting a minor for sexual activity

- Engaging in sex trafficking
- Knowingly creating, possessing, or disseminating child pornography

Force, Coercion,
Consent, and
Incapacitation

As used in the offenses above, the following definitions and understandings apply:

Force: Force is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g., “Have sex with me or I’ll hit you,” “Okay, don’t hit me. I’ll do what you want.”).

Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

Coercion: Coercion is unreasonable pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

Consent: Consent is knowing, and voluntary, and clear permission by word or action to engage in sexual activity.

Individuals may experience the same interaction in different ways. Therefore, it is the responsibility of each party to determine that the other has consented before engaging in the activity.

If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged.

For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Reasonable reciprocation can be implied consent. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain their consent to being kissed back.

Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, that sexual activity should cease within a reasonably immediate time.

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent. If an individual expresses conditions on their willingness to consent (e.g., use of a condom) or limitations on the scope of their consent, those conditions and limitations must be respected.

Proof of consent or non-consent is not a burden placed on either party involved in a complaint. Instead, the burden remains on South Plains College to determine whether its policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged misconduct occurred and any similar, previous patterns that may be evidenced.

Consent in relationships must also be considered in context. When parties consent to Bondage, discipline/dominance, submission/sadism, and masochism (BDSM) or other forms of kink, non-consent may be shown by the use of a safe word. Resistance, force, violence, or even saying “no” may be part of the kink and thus consensual, thus the College’s evaluation of communication in kink situations should be guided by reasonableness, rather than strict adherence to policy that assumes non-kink relationships as a default.

Incapacitation: A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious, for any reason, including due to alcohol or other drug consumption. As stated above, a Respondent violates this Policy if they engage in sexual activity with someone who is incapable of giving consent.

It is a defense to a sexual assault policy violation that the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated. “Should have known” is an objective, reasonable person standard that assumes that a reasonable person is both sober and exercising sound judgment.

Incapacitation occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where, why, or how” of their sexual interaction).

Incapacitation is determined through consideration of all relevant indicators of an individual's state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.

This Policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating substances.

Prohibited Conduct In this policy, the term "prohibited conduct" includes discrimination, sexual harassment, dating violence, domestic violence, stalking, and retaliation as described by this policy, even if the behavior does not rise to the level of unlawful conduct.

Complainant In this policy, the term "Complainant" refers to an employee who is alleged to have experienced prohibited conduct.

Respondent In this policy, the term "Respondent" refers to a person who is alleged to have committed prohibited conduct.

Confidential Employee A "Confidential Employee" is a person who holds a professional license requiring confidentiality, such as a counselor or medical provider, who is supervised by such a person, or a person who is a nonprofessional counselor or advocate designated in administrative procedures as a confidential source.

A Confidential Employee who receives a report within the scope of their confidential roles will timely submit anonymous statistical information for Clery Act purposes to the director of health and wellness. The director will submit only convey the date of the report to the Title IX Coordinator in order to ensure anonymity and avoid harm to the client, patient, or parishioner.

Reporting Procedures

**Reporting by
Alleged victim**

An alleged victim of prohibited conduct has the right to report the incident to the College and to receive a prompt and equitable resolution of the report.

An employee who believes that the employee has experienced prohibited conduct may report the alleged acts to the employee's immediate supervisor, to the Title IX Coordinator, or to the College President or designee.

Reports against the Title IX Coordinator may be directed to the College President. A report against the College President may be made directly to the Board. If a report is made directly to the Board,

the Board shall appoint an appropriate person to conduct an investigation. An employee shall not be required to report prohibited conduct to the person alleged to have committed the conduct.

Alternatively, the employee may report electronically through the College's website.

An alleged victim of a crime has the right to choose whether to report the crime to law enforcement, to be assisted by the College in reporting the crime to law enforcement, or to decline to report the crime to law enforcement.

It is important that an alleged victim of prohibited conduct go to a hospital for treatment and preservation of evidence, if applicable, as soon as practicable after the incident.

Reporting by Other
Employees

Any employee who believes that another employee has experienced prohibited conduct, regardless of when or where the incident occurred, shall immediately report the alleged acts to the Title IX Coordinator. Additionally, the employee may report to the College President or designee.

A report against the College President must also be made directly to the Board. If a report is made directly to the Board, the Board shall appoint an appropriate person to conduct an investigation.

Exceptions

Disclosure at
Event

A person who received the information solely from a disclosure at a sexual harassment, sexual assault, dating violence, or stalking public awareness event sponsored by a postsecondary educational institution or by an employee organization affiliated with the institution is not required to report the prohibited conduct unless the person has authority to institute corrective measures on behalf of the College.

Supportive measures may be offered as the result of such disclosures without formal College action.

Employee
Subject to
Confidentiality
Rules

Absent the employee's consent, or unless required by law, a Confidential Employee shall only be required to disclose the type of incident reported and may not disclose information that would violate the employee's expectation of privacy. If multiple Confidential Employees receive information about the same alleged incident, then only one report disclosing the type of incident must be submitted.

Peace Officer

A College peace officer who received information regarding the incident from an employee who chooses to complete a pseudonym form as described by law shall only be required to disclose the type of incident reported and may not disclose the employee's name,

	phone number, address, or other information that may directly or indirectly reveal the employee's identity.
Prior Report	A person who has either learned of an incident of prohibited conduct during the course of the College's review or process, or has confirmed with the person or office overseeing the review or process that the incident has been previously reported, is not required to report the prohibited conduct.
Amnesty	The College community encourages the reporting of misconduct and crimes by Complainants and witnesses. Complainants or witnesses are hesitant to report to College officials or participate in resolution processes out of fear that they may be in violation of certain policies at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons. It is in the best interests of the College community that Complainants choose to report misconduct to College officials, that witnesses come forward to share what they know, and that all parties be forthcoming during the process. To encourage reporting and participation in the process, SPC maintains a policy of offering parties and witnesses amnesty from minor policy violations related to the incident. Amnesty does not apply to more serious allegations outlined in this policy, or violations such as physical abuse of another or illicit drug distribution. The decision not to offer amnesty to a Respondent is based on neither sex nor gender, but on the fact that collateral misconduct is typically addressed within a progressive discipline system, and the rationale for amnesty – the incentive to report serious misconduct – is rarely applicable to Respondent with respect to a Complainant.
Title IX Coordinator	Reports of discrimination based on sex, including sexual harassment, may be directed to the Title IX Coordinator. The College designates the following person to coordinate its efforts to comply with Title IX of the Education Amendments of 1972, as amended, and related state and federal laws: Title IX Stan DeMerritt, Ph.D. Coordinator: Address: Office of the Vice President for Student Affairs 1401 S. College Avenue Student Service Building Levelland, TX 79336 Telephone: 806-716-2360

Email: Complaints@southplainscollege.edu

Webpage: <https://www.southplainscollege.edu/about/campussafety/complaints.php>

**Responsible
Employees**

All employees, with the exception of Confidential Employees, are designated as Responsible Employees for purposes of compliance with Title IX.

Failure of a Responsible Employee to report an incident of harassment or discrimination of which they become aware of is a violation of SPC policy and Texas law and can be subject to disciplinary action up to and including termination, as well as criminal and civil penalties, for failure to comply. This policy provision also applies when a Responsible Employee makes a knowingly false report with the intent to harm or deceive.

When a Responsible Employee is engaged in harassment or other violations of this Policy, they still have a duty to report their own misconduct, though South Plains College is technically not on notice simply because a harasser is also a Responsible Employee unless the harasser does in fact report themselves.

A Responsible Employee who is themselves a target of harassment or other misconduct under this Policy is not required to report their own experience, though they are, of course, encouraged to do so.

**Anonymous
Reporting**

Responsible reporters are not permitted to give anonymous notice (i.e., without identification of the Complainant) to the Title IX Coordinator (for Complaints involving students) or the Human Resources Director (for Complaints involving only employees) except for campus peace officers who receive information regarding an incident of the sexual harassment, sexual assault, dating violence, or stalking from a Complainant who wishes to complete a pseudonym form. In such an instance, the peace officer will only report the type of incident and may not include the Complainant's name, phone number, address, or other information that may directly or indirectly reveal the Complainant's identity.

Responsible employees cannot remain anonymous themselves.

Anonymous notice will be investigated by South Plains College to the extent possible, both to assess the underlying allegation(s) and to determine if supportive measures or remedies can be provided.

However, anonymous notice typically limits South Plains College's ability to investigate, respond, and provide remedies, depending on what information is shared.

Timely Reporting	A failure to immediately report prohibited conduct may impair the College's ability to investigate and address the conduct; thwart serious or continuing threat of bodily harm or danger to members of the campus community. The College will ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.
Consolidate Reports	When the allegations underlying two or more complaints arise out of the same facts or circumstances, the College may consolidate the complaints.
Case Advisor	Each party to a complaint may be assisted by a case advisor of the party's choice who may participate in the proceedings in a manner consistent with College procedures. The responsibilities of a Case Advisor for an investigation is outlined in the procedures document of this policy.
Conflict of Interest Prohibited	No person designated as the Title IX Coordinator, a deputy Title IX Coordinator, an investigator, a decision-maker, or a facilitator of an informal resolution process shall have a conflict of interest or bias.
Training	A person designated as the Title IX Coordinator, a deputy Title IX Coordinator, an investigator, a decision-maker, or a facilitator of an informal resolution process shall receive training as required by law and College procedures.
Law Enforcement Training	All officers employed by the College Police Department must complete training on trauma-informed investigation into allegations encompassed within this policy.
Responsible Employee Training	Responsible Employees must be trained to understand the scope of their reporting duty: • When they witness or receive information. • In the "course and scope" of their employment. • The obligation to report situations or incidents that employees reasonably believe would constitute a violation of the policy (alleged victim can be either a student or employee). • Reports communicated must include all known relevant information about the incident, any redress so far, and whether the reporting party has expressed a desire for confidentiality,

- The reporting duty does not apply:
 - To an incident in which the mandatory reporter was an alleged victim themselves, and/or
 - When the disclosure was made at a public awareness event.
- Criminal liability exists for knowingly failing to make a required report. Intent to harm or deceive is an additional aggravating actor in any criminal prosecution.
- The institution will terminate any employee who the institution determines has knowingly failed to comply with the reporting requirements.

Confidential
Reporters

All confidential reporters must receive training on their duties.

Days

“Days” shall mean College business days, unless otherwise noted. In calculating timelines under this policy, the day a document is filed is “day zero.” The following business day is “day one.”

**Extension of
Timelines**

Timelines established by this policy and associated procedures may be subject to a limited extension if good cause, as defined in this policy and College regulations, exists. The College shall promptly provide written notice to the parties of an extension and the reason for the extension. A limited delay determined to be necessary so as not to impede a criminal or regulatory investigation shall constitute good cause for an extension of timelines established by this policy and associated procedures.

**Investigation of the
Report**

The College may request, but shall not insist upon, a written report. If a report is made orally, the Title IX Coordinator or designee shall reduce the report to written form.

The process for investigation of the reported incident are outlined in the procedures document of this policy.

Initial Assessment

Upon receipt or notice of a report, the Title IX Coordinator shall determine whether the allegations, if proven, would constitute prohibited conduct as defined by this policy. If so, the Title IX Coordinator shall promptly offer supportive measures to the Complainant. The Title IX Coordinator shall explain the process for filing a formal complaint and assess any request not to investigate. If the College moves forward with the investigation, the Title IX Coordinator shall immediately provide notice to the known parties to the complaint.

If the Title IX Coordinator determines that the allegations, if proven, would not constitute prohibited conduct as defined by this policy

but may constitute a violation of other College rules or regulations, the Title IX Coordinator shall refer the complaint for consideration under the appropriate policy (e.g., DIAB).

Request Not to Investigate

The Complainant may make a formal request to the Title IX Coordinator that the College not investigate the allegations. If the Complainant requests that the allegations not be investigated, in deciding whether to initiate the investigation, the College must consider the factors described by law and any other factors the College considers relevant including:

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

The College shall promptly notify the Complainant of the decision regarding whether it will conduct the investigation. If the College decides not to investigate the allegations, the College shall take reasonable steps to protect the health and safety of the College community.

Formal Complaint

A complaint is considered formal when received through the College's online reporting system. This can occur with submission of an incident report by the Complainant, Responsible Employee, or witness; a written signed complaint from the Complainant is submitted the Title IX Coordinator or designee; or the Complainant visits with the Title IX Coordinator or designee and the meeting is documented in the College's incident reporting system. Recording the complaint in the College's incident reporting system acts as the official signing of the formal complaint.

Notice to Parties

The notice to the parties must describe the allegations and the formal and informal options for resolution of the complaint. The notice must state that the respondent is presumed not responsible until a determination regarding responsibility is made. The notice must also include information regarding the option to select an advisor, the opportunity to inspect and review evidence, and the prohibition on knowingly making false statements or submitting false information during the investigation and any ensuing proceedings.

If the allegations are subsequently amended, the College shall provide an updated notice reflecting the new allegations.

The notice to parties process is outlined in the procedures document of this policy.

Informal Resolution The College may offer to the parties a process for the informal resolution of a formal complaint as defined by law. If the parties voluntarily agree in writing to participate in informal resolution of a formal complaint, the Title IX coordinator shall determine within three days if informal resolution is appropriate for the complaint. If the Title IX coordinator determines that informal resolution is appropriate, then the Title IX coordinator or designee may facilitate that resolution within ten days. If the Title IX coordinator does not determine informal resolution to be appropriate, then the complaint will be subject to the formal resolution process.

The process for informal resolution is outlined in the procedures document of this policy.

Formal Resolution If the complaint is not subject to the informal resolution process, the Title IX Coordinator shall authorize or undertake an investigation.

The process for formal resolution is outlined in the procedures document of this policy.

Supportive Measures If appropriate and regardless of whether a criminal or regulatory investigation regarding the alleged conduct is pending, the Title IX Coordinator shall promptly provide supportive measures intended to prevent prohibited conduct, protect the safety of the parties and others, and protect the parties from retaliation prior to the completion of the investigation. Examples of possible supportive measures include work accommodations, such as leaves of absence or administrative leave; mutual restrictions on contact between the parties; counseling and health services; and increased security and monitoring of certain areas of the campus.

College Investigation The investigation may be conducted by the Title IX coordinator or a designee or by a third party designated by the College, such as an attorney. When appropriate, the supervisor shall be involved in or informed of the investigation.

The investigation may consist of personal interviews with the complainant, the respondent, and others with knowledge of the circumstances surrounding the allegations. The investigation may also include analysis of other information or documents related to the allegations.

The parties shall be provided an equal opportunity to present witnesses and evidence and to inspect and review any directly related evidence obtained by the College so that the parties may meaningfully respond during the investigation process. The parties expected to participate in an investigative interview or other meeting shall be provided written notice in enough time to prepare to participate.

At least ten days prior to the completion of the investigation report, the College must send each party and the party's advisor evidence subject to inspection and review. The parties may submit a written response for consideration by the investigator.

The process for investigation is outlined in the procedures document of this policy.

**Criminal or
Regulatory
Investigation**

If a law enforcement or regulatory agency notifies the College that a criminal or regulatory investigation has been initiated, the College shall confer with the agency to determine if the College's investigation would impede the criminal or regulatory investigation. The College shall proceed with its investigation only to the extent that it does not impede the ongoing criminal or regulatory investigation. After the law enforcement or regulatory agency has completed gathering its evidence, the College shall promptly resume its investigation. Any delay under this provision shall constitute good cause for an extension of timelines established by this policy and associated procedures.

**Concluding the
Investigation**

The investigation shall be completed within a reasonable time, not to exceed 30 days from the date of the report.

The investigator shall prepare a written report of the investigation. The investigation report shall be filed with the Title IX Coordinator within five days following the completion of the investigation.

**Notification of the
Report**

The Title IX Coordinator shall provide the investigation report, within the extent permitted by law, to the Complainant and the Respondent promptly following receipt. The parties shall be given ten days to respond to the report.

College Action

The Title IX coordinator or investigator shall submit the investigation report to the decision-maker promptly after receipt of the parties' response but no later than the expiration of the parties' deadline to respond.

The decision-maker or designee shall summon the parties for a hearing to be held within a reasonable time, not to exceed ten

days. The hearing shall be conducted in accordance with law and College procedures.

After the hearing, the decision-maker or designee shall determine whether each individual allegation of prohibited conduct occurred using a preponderance of evidence standard and determine the appropriate disciplinary or corrective action. In making the determination, the decision-maker or designee shall evaluate all relevant evidence objectively and shall not make credibility assessments based on a person's status as the complainant, the respondent, or a witness. The decision-maker or designee shall create a written determination regarding responsibility in accordance with law and College procedures within five days following the hearing and submit the determination to the parties simultaneously.

The process for the College's action on the investigation is outlined in the procedures document of this policy.

Disciplinary or
Corrective Action

If the decision-maker or designee determines that prohibited conduct occurred, the College shall promptly respond by taking appropriate disciplinary or corrective action reasonably calculated to address the conduct.

The College may take action based on the results of an investigation, even if the conduct did not rise to the level of prohibited or unlawful conduct.

Examples of disciplinary or corrective action may include:

- Implementing the disciplinary measures described in DH and the DM series for employees or FM for students;
- Providing a training program for those involved in the complaint;
- Providing a comprehensive education program for the College community;
- Providing counseling for the victim and the student who engaged in prohibited conduct;
- Permitting the victim or student engaged in the prohibited conduct to drop a course in which they both are enrolled without penalty;
- Conducting follow-up inquiries to determine if any new incidents or any instances of retaliation have occurred;
- Involving employees in efforts to identify problems and improve the College climate;

- Increasing staff monitoring of areas where prohibited conduct has occurred;
- Reaffirming the College's policy against discrimination and harassment; and
- Taking other actions described in College regulations.

The process for Disciplinary or Corrective Action is outlined in the procedures document of this policy.

Exception

The College shall minimize attempts to require a Complainant to resolve the problem directly with the person who engaged in the harassment; however, if that is the most appropriate resolution method, the College shall be involved in an appropriate manner.

Improper Conduct

If the decision-maker or designee determines that improper conduct occurred that did not rise to the level of prohibited conduct, the College may take disciplinary action in accordance with College policy and procedures or other corrective action reasonably calculated to address the conduct.

Dismissal of Complaint

Mandatory Dismissal

An allegation presented as a formal complaint under Title IX is subject to the mandatory dismissal procedures under law.

Permissive Dismissal

Any complaint may be dismissed at any time on request of a Complainant. The Title IX Coordinator must first assess the request in accordance with this policy at Request Not to Investigate, above.

A complaint may also be dismissed if specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the complaint or allegations.

Notice of Dismissal

Upon dismissal of a complaint, the Title IX Coordinator or the decision-maker or designee shall provide the parties written notice of the dismissal.

Confidentiality

To the greatest extent possible, consistent with law, the College shall respect the privacy of the Complainant or the Respondent or a person who makes a report or serves as a witness. Limited disclosures may be necessary to carry out the purposes of this policy and associated regulations and to comply with applicable law.

Retaliation

Protected activity under this Policy includes reporting alleged misconduct that may implicate this Policy, participating in the resolution process, supporting a Complainant or Respondent, assisting in providing information relevant to an investigation, and/or acting in

good faith to oppose conduct that constitutes a violation of this Policy.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator (for Complaints involving students) or the Human Resources Director (for Complaints involving only employees) and will be promptly investigated. The College will take all appropriate and available steps to protect individuals who fear that they may be subjected to retaliation.

South Plains College and any member of SPC's community are prohibited from taking or attempting to take materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy and supporting procedures.

The exercise of rights protected under the First Amendment does not constitute retaliation.

Pursuing a code of conduct violation for making a materially false statement in bad faith during a grievance proceeding under this Policy and procedure does not constitute retaliation, provided that a determination regarding responsibility alone, is not sufficient to conclude that any party has made a materially false statement in bad faith.

A person who is alleged to have experienced retaliation may pursue a claim under this policy or policy FFDA, as appropriate.

Examples

Examples of retaliation may include termination, refusal to hire, demotion, and denial of promotion. Retaliation may also include threats, unjustified negative evaluations, unjustified negative references, or increased surveillance.

Failure to Report and False Claims

An employee who fails to make a required report or an employee or student who intentionally makes a false claim, offers a false statement, or refuses to cooperate with a College investigation regarding prohibited conduct shall be subject to appropriate disciplinary action in accordance with applicable law.

This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a policy violation determination.

Witnesses and parties knowingly providing false evidence, tampering with or destroying evidence, or deliberately misleading an official conducting an investigation, hearing, or informal resolution can be subject to discipline under the appropriate College policies.

Appeal

Discipline or Corrective Action

Employees

Suspension
Without Pay or
Termination of
Contract
Employees

If the decision-maker or designee determines that a contract employee committed prohibited conduct that warrants suspension without pay or termination mid-contract, the decision-maker or designee shall inform the employee in writing of the determination, and a Board hearing shall be scheduled in accordance with DMAA.

If the decision-maker or designee determines that the employee committed prohibited conduct that warrants other discipline or corrective action, the decision-maker or designee shall inform the employee that the employee may appeal the determination within ten days in accordance with DGBA beginning at Level Three.

Students

Suspension

If the decision-maker or designee determines that a student committed prohibited conduct that warrants a suspension, the official shall forward the determination and all evidence collected during the investigation and hearing to the College President. A conference shall be scheduled within ten days of the notice of determination in accordance with FMA, beginning at Appeal to College Administration.

Expulsion

If the decision-maker or designee determines that the student committed prohibited conduct that warrants expulsion, the official shall forward the determination and all evidence collected during the investigation and hearing to the College President to schedule an expulsion hearing before the Board in accordance with FMA.

Other Action

If the decision-maker or designee determines that the student committed prohibited conduct that warrants other discipline or corrective action, the decision-maker or designee shall inform the student that the student may appeal the determination within ten days in accordance with FMA, beginning at Appeal to College Administration.

Other Appeals

All other appeals related to this policy may be submitted through the applicable grievance policy beginning at the appropriate level. [See DGBA(LOCAL) for employees, FLD(LOCAL) for students, and GB(LOCAL) for community members]

**Complaints Filed
with State or Federal
Agencies**

A party shall be informed of any right to file a complaint with appropriate state or federal agencies.

Records Retention

Retention of records shall be in accordance with the College's records retention procedures. [See CIA]

**Access to Policy,
Procedures, and
Related Materials**

Information regarding this policy and any accompanying procedures, as well as relevant educational and resource materials concerning the topics discussed in this policy, shall be distributed to applicants for admission and employment and annually to College employees, students, and parents or guardians of dual credit students in compliance with law and in a manner calculated to provide easy access and wide distribution, such as through electronic distribution and inclusion in the employee and student handbooks and other major College publications. Information regarding the policy, procedures, and related materials and any materials used to train a person designated as the Title IX Coordinator, a deputy Title IX Coordinator, an investigator, a decision-maker, or a facilitator shall also be prominently published on the College's website on a dedicated page accessible through a clear link on the homepage, taking into account applicable legal requirements. Copies of the policy and procedures shall be readily available at the College's administrative offices and shall be distributed to an employee who makes a report.