

## Policies and Regulations

### NEPN Code: JICK-R/STI

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#### Students

#### Sex/Gender Harassment, Discrimination and Misconduct

#### Title IX Coordinator

~~Southeast Tech's Title IX Coordinator oversees compliance with all aspects of the sex/gender harassment, discrimination and misconduct policy. Questions about this policy should be directed to the Title IX Coordinator. Anyone wishing to make a report relating to discrimination or harassment may do so by reporting the concern to the Title IX Coordinator.~~

~~Name: \_\_\_\_\_ Tracy Noldner~~

~~Title: \_\_\_\_\_ Executive Director of Student Affairs & Institutional Effectiveness/Title IX Phone:  
(605) 367-7487~~

~~Email: \_\_\_\_\_ [Tracy.Noldner@southeasttech.edu](mailto:Tracy.Noldner@southeasttech.edu)~~

~~Individuals experiencing harassment or discrimination always have the right to file a formal grievance with government authorities:~~

~~Office for Civil Rights (OCR)~~

~~Kansas City Office~~

~~U.S. Department of Education~~

~~One Petticoat Lane~~

~~1010 Walnut Street, Suite 320~~

~~Kansas City, MO 64106~~

~~Telephone: (816) 268-0550~~

~~Fax: (816) 268-0559~~

~~Email: [OCR.KansasCity@ed.gov](mailto:OCR.KansasCity@ed.gov)~~

~~Web: <http://www.ed.gov/ocr>~~

~~U.S. Department of Justice Civil Rights Division~~

~~950 Pennsylvania Avenue, N.W.~~

~~Educational Opportunities Section, PHB~~

~~Washington, D.C. 20530~~

~~By e-mail to: [education@usdoj.gov](mailto:education@usdoj.gov)~~

~~By telephone at (202) 514-4092 or 1-877-292-3804 (toll free)~~

1  
2  
3 ~~In the event that an incident involves alleged misconduct by the Title IX Coordinator, reports should be~~  
4 ~~made directly to the President of Southeast Tech.~~

5  
6 **~~Overview of Policy Expectations with respect to physical sexual misconduct~~**

7  
8 See Appendix A

9  
10 **~~Overview of Policy Expectations with respect to consensual relationships~~**

11  
12 ~~There are inherent risks in any romantic or sexual relationship between individuals in unequal positions~~  
13 ~~(such as teacher and student, supervisor and employee). These relationships may be less consensual than~~  
14 ~~perceived by the individual whose position confers power. The relationship also may be viewed in different~~  
15 ~~ways by each of the parties, particularly in retrospect. Furthermore, circumstances may change, and~~  
16 ~~conduct that was previously welcome may become unwelcome. Even when both parties have consented~~  
17 ~~at the outset to a romantic or sexual involvement, this past consent may not remove grounds for a later~~  
18 ~~charge of a violation of applicable Southeast Tech policies. Southeast Tech does not wish to interfere with~~  
19 ~~private choices regarding personal relationships when these relationships do not interfere with the goals~~  
20 ~~and policies of the institute. For the personal protection of members of the community, relationships in~~  
21 ~~which power differentials are inherent (faculty student, staff student, administrator student, supervisor-~~  
22 ~~supervisee) are generally discouraged.~~

23  
24 ~~Consensual romantic or sexual relationships in which one party maintains a direct supervisory or~~  
25 ~~evaluative role over the other party are unethical. Therefore, persons with direct supervisory or evaluative~~  
26 ~~responsibilities who are involved in such relationships must bring those relationships to the timely~~  
27 ~~attention of their supervisor, and will likely result in the necessity to remove the employee from the~~  
28 ~~supervisory or evaluative responsibilities, or shift the student out of being supervised or evaluated by~~  
29 ~~someone with whom they have established a consensual relationship. While no relationships are~~  
30 ~~prohibited by this policy, failure to self-report such relationships to a supervisor as required can result in~~  
31 ~~disciplinary action for an employee.~~

32  
33 **~~Sexual Violence – Risk Reduction Tips~~**

34  
35 See Appendix G

36  
37 **~~Sexual Misconduct Offenses Include, but are not limited to:~~**

- 38  
39 ~~1. Sexual Harassment~~  
40 ~~2. Non-Consensual Sexual Contact (or attempts to commit same)~~  
41 ~~3. Non-Consensual Sexual Intercourse (or attempts to commit same)~~  
42 ~~4. Sexual Exploitation~~  
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44  
45  
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47

1 ~~1. SEXUAL HARASSMENT~~

2  
3 Sexual Harassment is:

- 4 ~~• unwelcome,~~
- 5 ~~• sexual, sex-based and/or gender-based verbal, written, online and/or physical conduct.~~

6  
7 ~~Anyone experiencing sexual harassment at Southeast Tech is encouraged to report it immediately to the~~  
8 ~~Title IX Coordinator or an administrator. Remedies, education and or/training will be provided in response.~~

9  
10 ~~Sexual harassment may be disciplined when it takes the form of quid pro quo harassment, retaliatory~~  
11 ~~harassment and/or creates a hostile environment.~~

12  
13 ~~A hostile environment is created when sexual harassment is:~~

- 14 ~~• sufficiently severe, or~~
- 15 ~~• persistent or pervasive, and~~
- 16 ~~• objectively offensive that it:~~
  - 17 ~~○ Unreasonably interferes with, denies or limits someone's ability to participate in or benefit~~
  - 18 ~~from Southeast Tech's educational and/or employment, social and/or residential program.~~

19  
20 ~~Quid Pro Quo Harassment is:~~

- 21 ~~• Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a~~  
22 ~~sexual nature~~
- 23 ~~• By a person having power or authority over another constitutes sexual harassment when:~~
  - 24 ~~○ Submission to such sexual conduct is made either explicitly or implicitly a term or condition~~
  - 25 ~~of rating or evaluating an individual's educational or employment progress, development or~~
  - 26 ~~performance.~~
  - 27 ~~○ This includes when submission to such conduct would be a condition for access to receiving~~
  - 28 ~~the benefits of any educational or employment program.~~

29  
30 ~~Examples of possible Sexual Harassment can be found in Appendix B.~~

31 ~~2. NON-CONSENSUAL SEXUAL CONTACT~~

32  
33 ~~Non-Consensual Sexual Contact is:~~

- 34  
35 ~~• Any intentional sexual touching,~~
- 36 ~~• however slight,~~
- 37 ~~• with any object,~~
- 38 ~~• by a person upon another person,~~
- 39 ~~• that is without consent and/or by force~~

1 Sexual Contact includes:

- 2
- 3 • Intentional contact with the breasts, buttock, groin, or genitals, or touching another with any of
- 4 these body parts, or making another touch you or themselves with or on any of these body
- 5 parts; or
- 6 • Any other intentional bodily contact in a sexual manner.

7 3. NON-CONSENSUAL SEXUAL INTERCOURSE

8

9 Non-Consensual Sexual Intercourse is:

- 10
- 11 • Any sexual intercourse
- 12 • however slight,
- 13 • with any object,
- 14 • by a person upon another person,
- 15 • that is without consent and/or by force.

16 Intercourse includes:

- 17
- 18 ○ vaginal or anal penetration by a penis, object, tongue or finger, and oral copulation (mouth
- 19 to genital contact), no matter how slight the penetration or contact.

20 4. SEXUAL EXPLOITATION

21

22 Sexual exploitation occurs when one person takes non-consensual or abusive sexual advantage of another

23 for his/her own advantage, or benefit, or to benefit or advantage anyone other than the one being

24 exploited, and that behavior does not otherwise constitute one of the other sexual misconduct offenses.

25

26 For examples of sexual exploitation, see Appendix C.

27

28 ADDITIONAL APPLICABLE DEFINITIONS

29

- 30 • Consent:

- 31 ○ Consent is

- 32 • Clear, and
- 33 • knowing, and
- 34 • affirmative, conscious and voluntary
- 35 • words or actions,
- 36 • that give permission for specific sexual activity.

- 37 ○ Consent is active, not passive.

- 38 ○ Silence, in and of itself, cannot be interpreted as consent.

- 39 ○ Consent can be given by words or actions, as long as those words or actions create mutually
- 40 understandable permission regarding willingness to engage in (and the conditions of) sexual
- 41 activity.

- 42 ○ Previous relationships or prior consent cannot imply consent to future sexual acts.

- ~~○ Consent can be withdrawn once given, as long as that withdrawal is clearly communicated.~~
- ~~○ In order to give consent, one must be of legal age.~~
- ~~○ Sexual activity with someone you know to be or should know to be incapacitated constitutes a violation of this policy.~~
  - ~~● Incapacitation can occur mentally or physically, from developmental disability, by alcohol or other drug use, or blackout.~~
  - ~~● The question of what the responding party should have known is objectively based on what a reasonable person in the place of the responding party, sober and exercising good judgment, would have known about the condition of the reporting party.~~
  - ~~● Incapacitation is a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent (e.g., to understand the “who, what, when, where, why or how” of their sexual interaction).~~
  - ~~● This policy also covers a person whose incapacity results from mental disability, sleep, unconsciousness, involuntary physical restraint, or from the taking of rape drugs. (Possession, use and/or distribution of any of these substances, including Rohypnol, Ketamine, GHB, Burundanga, etc. is prohibited, and administering one of these drugs to another person is a violation of this policy. More information on these drugs can be found at <http://www.911rape.org/>)~~
- ~~● Force: Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats) and coercion that overcomes free will or resistance or that produces consent.~~
  - ~~○ Coercion is unreasonable pressure for sexual activity. When someone makes clear to you that they do not want sex, 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.~~
  - ~~○ NOTE: There is no requirement for a party to resist the sexual advance or request, but resistance is a clear demonstration of non-consent. The presence of force is not demonstrated by the absence of resistance. Sexual activity that is forced is by definition non-consensual, but non-consensual sexual activity is not by definition forced.~~
- ~~● Use of alcohol or other drugs will never function to excuse any behavior that violates this policy.~~
- ~~● This policy is applicable regardless of the sexual orientation and/or gender identity of the individuals engaging in sexual activity.~~

1 ● ~~For reference to the pertinent state statutes on sex offenses, please see~~  
2 ~~[http://legis.sd.gov/Statutes/Codified\\_Laws/DisplayStatute.aspx?Type=Statute&Statute=22-22](http://legis.sd.gov/Statutes/Codified_Laws/DisplayStatute.aspx?Type=Statute&Statute=22-22)~~  
3 ~~For examples of Non-Consensual Sexual Contact and Non-Consensual Sexual Intercourse, please see~~  
4 ~~Appendix D.~~

5  
6 **~~Other misconduct offenses (will fall under Title IX when sex or gender based)~~**

- 7  
8 ~~1. Threatening or causing physical harm, extreme verbal abuse, or other conduct which threatens or~~  
9 ~~endangers the health or safety of any person;~~  
10 ~~2. Discrimination, defined as actions that deprive other members of the community of educational or~~  
11 ~~employment access, benefits, or opportunities on the basis of sex or gender;~~  
12 ~~3. Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another;~~  
13 ~~4. Hazing, defined as an act against a student or coercing a student into committing an act that~~  
14 ~~creates a risk of harm to a person, in order for the student to be initiated into or affiliated with a~~  
15 ~~student organization (school, group, club, team, activity, event, etc.) or for any other purpose (as~~  
16 ~~defined further in the Hazing Policy — JICFA/STI JICFA-R/STI).~~  
17 ~~5. Bullying, defined as~~  
18 ~~a. Repeated and/or severe~~  
19 ~~b. Aggressive behavior~~  
20 ~~c. Likely to intimidate or intentionally hurt, control or diminish another person, physically or~~  
21 ~~mentally~~  
22 ~~d. That is not speech or conduct otherwise protected by the 1st Amendment.~~  
23 ~~6. Intimate Partner Violence, defined as physical harm, bodily injury, or attempts to cause physical~~  
24 ~~harm or bodily injury, the infliction of fear of imminent physical harm or bodily injury, or a pattern~~  
25 ~~of abusive behaviors between one or more partners in an intimate relationship.~~  
26 ~~a. A boyfriend shoves his girlfriend into a wall upon seeing her talking to a male friend. This~~  
27 ~~physical assault based in jealousy is a violation of the Intimate Partner Violence definition.~~  
28 ~~b. An ex-girlfriend shames her female partner, threatening to out her as a lesbian if she~~  
29 ~~doesn't give the ex another chance. Psychological abuse is a form of Intimate Partner~~  
30 ~~Violence.~~  
31 ~~c. A student refuses to wear a condom and forces his girlfriend to take hormonal birth control~~  
32 ~~though it makes her ill, in order to prevent pregnancy.~~  
33 ~~d. Married employees are witnessed in the parking lot, with one partner slapping and~~  
34 ~~scratching the other in the midst of an argument.~~  
35 ~~7. Stalking~~  
36 ~~a. Stalking 1:~~  
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- ~~i. A course of conduct~~
- ~~ii. Directed at a specific person~~
- ~~iii. On the basis of actual or perceived membership in a protected class~~
- ~~iv. That is unwelcome, AND~~
- ~~v. Would cause a reasonable person to fear~~
- ~~b. Stalking 2:~~
  - ~~i. Repetitive and Menacing~~
  - ~~ii. Pursuit, following, harassing and or interfering with the peace and/or safety of another~~
- ~~c. Examples of Stalking — See Appendix E~~

~~8. Any other Southeast Tech policy may fall within this section when a violation is motivated by the actual or perceived membership of the reporting party's sex or gender.~~

### **Retaliation**

~~Retaliation is defined as any adverse action taken against a person participating in a protected activity because of their participation in that protected activity (subject to limitations imposed by the 1st Amendment and/or Academic Freedom). Retaliation against an individual for an allegation, for supporting a reporting party or for assisting in providing information relevant to an allegation is a serious violation of Southeast Tech policy.~~

### **Sanctions**

~~The following sanctions may be imposed upon any member of the community found to have violated the Sex/Gender Harassment, Discrimination and Misconduct Policy. The following are typical sanctions that may be imposed upon students or organizations singly or in combination.~~

#### **Student Sanctions (see Southeast Tech's Catalog & Handbook for additional sanctioning information)**

- ~~● Warning~~
- ~~● Probation~~
- ~~● Suspension~~
- ~~● Expulsion~~
- ~~● Transcript Notation~~
- ~~● Organizational Sanctions~~
- ~~● Other Actions~~

#### **Employee Sanctions (listed below and defined in the Employee Handbook)**

- ~~● Warning — Written or Verbal~~
- ~~● Performance Improvement Plan~~
- ~~● Required Counseling~~

- 1 ~~• Required Training or Education~~
- 2 ~~• Demotion~~
- 3 ~~• Suspension without Pay~~
- 4 ~~• Suspension with Pay~~
- 5 ~~• Termination~~

## 6 ~~Sanctioning for Sexual Misconduct~~

- 7
- 8 ~~• Any person found responsible for violating the Non-Consensual Sexual Contact policy (where no~~  
9 ~~intercourse has occurred) will likely receive a sanction ranging from probation to expulsion,~~  
10 ~~depending on the severity of the incident, and taking into account any previous disciplinary~~  
11 ~~violations.\*~~
- 12
- 13 ~~• Any person found responsible for violating the Non-Consensual Sexual Intercourse definition will~~  
14 ~~likely face a recommended sanction of suspension or expulsion (student) or suspension or~~  
15 ~~termination (employee).\*~~
- 16
- 17 ~~• Any person found responsible for violating the Sexual Exploitation or Sexual Harassment policies~~  
18 ~~will likely receive a recommended sanction ranging from warning to expulsion or termination,~~  
19 ~~depending on the severity of the incident, and taking into account any previous disciplinary~~  
20 ~~violations.\*~~
- 21

22

23 ~~\* The decision-making body reserves the right to broaden or lessen any range of recommended sanctions~~  
24 ~~in the case of serious mitigating circumstances or egregiously offensive behavior. Neither the initial~~  
25 ~~hearing officers nor any appeals body or officer will deviate from the range or recommended sanctions~~  
26 ~~unless compelling justification exists to do so.~~

## 27

## 28 ~~Confidentiality, Privacy and Reporting~~

### 29

### 30 ~~Confidentiality and Reporting of Offenses Under This Policy~~

31

32 ~~All Southeast Tech employees (faculty, staff, and administrators) are expected to immediately report~~  
33 ~~actual or suspected discrimination or harassment to appropriate officials, though there are some limited~~  
34 ~~exceptions. In order to make informed choices, it is important to be aware of confidentiality and~~  
35 ~~mandatory reporting requirements when consulting campus resources. On campus, some resources may~~  
36 ~~maintain confidentiality—meaning they are not required to report actual or suspected discrimination or~~  
37 ~~harassment to appropriate Institute officials—thereby offering options and advice without any obligation~~  
38 ~~to inform an outside agency or individual unless a victim has requested information to be shared. Other~~  
39 ~~resources exist for a victim to report crimes and policy violations and these resources will take action when~~  
40 ~~an incident is reported to them. The following describes the two reporting options at Southeast Tech:~~



1 **Confidential Reporting**

2  
3 ~~If a reporting party would like the details of an incident to be kept confidential, the reporting party may~~  
4 ~~speak with on-campus licensed professional counselors.~~

5  
6 ~~The following are off-campus resources for confidential reporting:~~

- 7  
8 ~~• Licensed professional counselors~~  
9 ~~• Local rape crisis counselors~~  
10 ~~• Domestic violence resources~~  
11 ~~• Local or state assistance agencies~~  
12 ~~• Clergy/Chaplains~~

13 ~~All of the above individuals/agencies will maintain confidentiality except in extreme cases of immediate~~  
14 ~~threat or danger, or abuse of a minor. Campus counselors are available to help free of charge and can be~~  
15 ~~seen on an emergency basis during normal business hours. These employees will submit timely,~~  
16 ~~anonymous, aggregate statistical information for Clery Act purposes unless they believe it would be~~  
17 ~~harmful to a specific client, patient or parishioner.~~

18  
19 **Formal Reporting Options**

20  
21 ~~All Southeast Tech employees have a duty to report, unless they fall under the “Confidential Reporting”~~  
22 ~~section above. Reporting parties may want to consider carefully whether they share personally identifiable~~  
23 ~~details with non-confidential employees, as those details must be shared by the employee with the Title IX~~  
24 ~~Coordinator. Employees must share all details of the reports they receive. Generally, climate surveys,~~  
25 ~~classroom writing assignments, human subjects research, or events such as Take Back the Night marches~~  
26 ~~or speak-outs do not require reporting to the Title IX Coordinator by employees; however, remedial~~  
27 ~~actions may result without formal institutional action.~~

28  
29 ~~If a victim does not wish for his/her name to be shared, does not wish for an investigation to take place, or~~  
30 ~~does not want formal resolution to be pursued, the victim may make such a request to the Title IX~~  
31 ~~Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and~~  
32 ~~comply with federal law. In cases indicating pattern, predation, threat, weapons and/or violence,~~  
33 ~~Southeast Tech will likely be unable to honor a request for confidentiality. In cases where the victim~~  
34 ~~requests confidentiality and the circumstances allow the Institute to honor that request, the Institute will~~  
35 ~~offer interim supports and remedies to the victim and the community, but will not otherwise pursue~~  
36 ~~formal action. A reporting party has the right, and can expect, to have reports taken seriously by the~~  
37 ~~Institute when formally reported, and to have those incidents investigated and properly resolved through~~  
38 ~~these procedures.~~

39  
40 ~~Formal reporting still affords privacy to the reporter, and only a small group of officials who need to know~~  
41 ~~will be told. Information will be shared as necessary with investigators, witnesses~~

1 ~~and the responding party. The circle of people with this knowledge will be kept as tight as possible to~~  
2 ~~preserve a reporting party's rights and privacy.~~

3  
4 ~~Reports to the Title IX Coordinator can be made via e-mail, phone or in person at the contact information~~  
5 ~~below:~~

6  
7 ~~Tracy Noldner (Tracy.Noldner@southeasttech.edu)~~  
8 ~~Executive Director of Student Affairs & Institutional Effectiveness/Title IX Coordinator (605) 367-7487~~

9  
10 ~~Failure of a non-confidential employee, as described in this section, to report an incident or incidents of~~  
11 ~~sex or gender harassment or discrimination of which they become aware, is a violation of Southeast Tech~~  
12 ~~policy and can be subject to disciplinary action for failure to comply with institute policies.~~

### 13 14 ~~Additional Policy Provisions~~

#### 15 16 ~~a.—Attempted Violations~~

17 ~~In most circumstances, Southeast Tech will treat attempts to commit any of the violations listed in the~~  
18 ~~Gender Misconduct definition as if those attempts had been completed.~~

#### 19 20 ~~b.—False Reports~~

21 ~~Southeast Tech will not tolerate intentional false reporting of incidents. It is a violation of the Student~~  
22 ~~Code of Conduct to make an intentionally false report of any policy violation, and it may also violate~~  
23 ~~state criminal statutes and civil defamation laws.~~

#### 24 25 ~~c.—Amnesty for Victims and Witnesses~~

26 ~~The Southeast Tech community encourages the reporting of misconduct and crimes by victims and~~  
27 ~~witnesses. Sometimes, victims and witnesses are hesitant to report to Southeast Tech officials or~~  
28 ~~participate in resolution processes because they fear that they themselves may be accused of policy~~  
29 ~~violations, such as underage drinking at the time of the incident. It is in the best interests of this~~  
30 ~~community that as many victims as possible choose to report to institute officials, and that witnesses~~  
31 ~~come forward to share what they know. To encourage reporting, Southeast Tech pursues a policy of~~  
32 ~~offering victims of misconduct and witnesses amnesty from minor policy violations related to the~~  
33 ~~incident.~~

34  
35 ~~Sometimes, students are hesitant to offer assistance to others for fear that they may get themselves in~~  
36 ~~trouble (for example, a student who has been drinking underage might hesitate to help take a sexual~~  
37 ~~misconduct victim to the Campus Security). Southeast Tech pursues a policy of amnesty for students~~  
38 ~~who offer help to others in need.~~

#### 39 40 ~~d.—Parental Notification~~

1 Southeast Tech reserves the right to notify parents/guardians of students regarding any health or  
2 safety risk, change in student status or conduct situation, particularly alcohol and other drug violations.  
3 Southeast Tech also reserves the right to designate which institute officials have a need to know about  
4 individual conduct reports pursuant to the Family Educational Rights and Privacy Act.

## 6 **Investigation and Appeal**

7  
8 For investigation and appeal information, the applicable Southeast Tech Policy/regulations will be  
9 followed: AC/STI, AC-R/STI Nondiscrimination/Equal Opportunity; JIAA/STI, JIAA-R/STI Harassment  
10 (Student); GBAA/STI, GBAA-R/STI Harassment (Personnel)

11  
12 For commonly asked questions regarding Southeast Tech’s sexual misconduct policy and procedures,  
13 please see Appendix F.

## 14 **APPENDIX A:**

### 15 **OVERVIEW OF POLICY EXPECTATIONS WITH RESPECT TO PHYSICAL SEXUAL MISCONDUCT**

16 The expectations of our community regarding sexual misconduct can be summarized as follows:

- 17 — In order for individuals to engage in sexual activity of any type with each other, there must be clear,  
18 knowing and voluntary consent prior to and during sexual activity.
- 19 — Consent is sexual permission. Consent can be given by word or action, but non-verbal consent is  
20 not as clear as talking about what you want sexually and what you do not.
- 21 — Consent to some form of sexual activity cannot be automatically taken as consent to any other  
22 form of sexual activity.
- 23 — Previous consent does not imply consent to sexual activity in the future.
- 24 — Silence or passivity — without actions demonstrating permission — cannot be assumed to show  
25 consent.
- 26 — Consent, once given, can be withdrawn at any time. There must be a clear indication that consent is  
27 being withdrawn.

28  
29 Additionally, there is a difference between seduction and coercion. Coercing someone into sexual activity  
30 violates this policy in the same way as physical forcing someone into sex. Coercion happens when  
31 someone is pressured unreasonably for sex.

32  
33 Because alcohol or other drug use can place the capacity to consent in question, sober sex is less likely to  
34 raise such questions. When alcohol or other drugs are being used, a person will be considered unable to  
35 give valid consent if they cannot fully understand the details of a sexual interaction (who, what, when,  
36 where, why, or how) because they lack the capacity to reasonably understand the situation. Individuals  
37 who consent to sex must be able to understand what they are doing. Under the policy, “No” always means  
38 “No”, and “Yes” may

1 not always mean “Yes”. Anything but a clear, knowing and voluntary consent to any sexual activity is the  
2 equivalent to a “no”.

### 3 4 **APPENDIX B:**

#### 5 **EXAMPLES OF POSSIBLE SEXUAL HARASSMENT**

- 6 ● ~~A professor insists that a student have sex with him/her in exchange for a good grade. This~~  
7 ~~is harassment regardless of whether the student consents to the request.~~
- 8 ● ~~A student repeatedly sends sexually oriented jokes around on an e-mail list s/he created,~~  
9 ~~even when asked to stop, causing one recipient to avoid the sender on campus.~~
- 10 ● ~~Explicit sexual pictures are displayed in a professor’s office or on the exterior of a student~~  
11 ~~housing apartment door.~~
- 12 ● ~~Two staff members frequently ‘rate’ several employees’ bodies and sex appeal,~~  
13 ~~commenting suggestively about their clothing and appearance.~~
- 14 ● ~~A professor engages students in her class in discussions about their past sexual~~  
15 ~~experiences, yet the conversation is not in any way relevant to the subject matter of the~~  
16 ~~class. She probes for explicit details, and demands the students answer her, though they~~  
17 ~~are clearly uncomfortable and hesitant.~~
- 18 ● ~~An ex girlfriend widely spreads false stories about her sex life with her former boyfriend to~~  
19 ~~the clear discomfort of the boyfriend, turning him into a social pariah on campus.~~
- 20 ● ~~A student grabbed another student by the hair, then grabbed her breast and put his mouth~~  
21 ~~on it. While this is sexual harassment, it is also a form of sexual violence.~~

### 22 23 **APPENDIX C:**

#### 24 **EXAMPLES OF SEXUAL EXPLOITATION**

- 25 ● ~~Invasion of sexual privacy;~~
- 26 ● ~~Prostituting another person;~~
- 27 ● ~~Non-consensual digital, video or audio recording of nudity or sexual activity;~~
- 28 ● ~~Engaging in voyeurism;~~
- 29 ● ~~Going beyond the boundaries of consent (such as letting your friend hide in the closet to watch you~~  
30 ~~having consensual sex);~~
- 31 ● ~~Knowingly exposing someone to or transmitting an STI, STD, or HIV to another person;~~
- 32 ● ~~Intentionally or recklessly exposing one’s genitals in non-consensual circumstances; inducing another~~  
33 ~~to expose their genitals;~~
- 34 ● ~~Sexually-based stalking and/or bullying may also be forms of sexual exploitation~~

### 35 **APPENDIX D:**

#### 36 **EXAMPLES OF NON-CONSENSUAL SEXUAL CONTACT**

37 **AND**

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## NON-CONSENSUAL SEXUAL INTERCOURSE

1  
2 1. ~~Amanda and Bill meet at a party. They spend the evening dancing and getting to know each other. Bill convinces Amanda to go to his apartment. From 11:00pm until 3:00am, Bill uses every line he can think of to convince Amanda to have sex with him, but she adamantly refuses. He keeps at her, and begins to question her religious convictions, and accuses her of being “a prude”. Finally, it seems to Bill that her resolve is weakening, and he convinces her to give him a “hand job” (hand to genital contact). Amanda would never had done it but for Bill’s incessant advances. He feels that he successfully seduced her, and that she wanted to do it all along, but was playing shy and hard to get. Why else would she have come up to his room alone after the party? If she really didn’t want it, she could have left. **Bill is responsible for violating Southeast Tech’s Non-Consensual Sexual Contact definition. It is likely that campus decision-makers would find that the degree and duration of the pressure Bill applied to Amanda are unreasonable. Bill coerced Amanda into performing unwanted sexual touching upon him. Where sexual activity is coerced, it is forced. Consent is not valid when forced. Sex without consent is sexual misconduct.**~~

16 2. ~~Tom is a second-year student. Beth is a first-year student. Tom comes to Beth’s on-campus apartment with some mutual friends to watch a movie. Tom and Beth, who have never met before, are attracted to each other. After the movie, everyone leaves, and Tom and Beth are alone. They hit it off, and are soon becoming more intimate. They start to make out. Tom verbally expresses his desire to have sex with Beth. Beth, who was abused by a babysitter when she was five, and has not had any sexual relations since, is shocked at how quickly things are progressing. As Tom takes her by the wrist over to the bed, lays her down, undresses her, and begins to have intercourse with her, Beth has a sever flashback to her childhood trauma. She wants to tell Tom to stop, but cannot. Beth is stiff and unresponsive during the intercourse. Is this a policy violation? **Tom would be held responsible in this scenario for Non-Consensual Sexual Intercourse. It is the duty of the sexual initiator, Tom, to make sure that he has mutually understandable consent to engage in sex. Though consent need not be verbal, it is the clearest form of consent. Here, Tom had no verbal or nonverbal mutually understandable indication from Beth that she consented to sexual intercourse. Of course, whenever possible, it is important to be as clear as possible as to whether or not sexual contact is desired, and to be aware that for psychological reasons, or because of alcohol or drug use, one’s partner may not be in a position to provide as clear an indication as the policy requires. As the policy makes clear, consent must be actively, not passively, given.**~~

1 ~~3. Kevin and John are at a party. Kevin is not sure how much John has been drinking, but he is pretty~~  
2 ~~sure it's a lot. After the party, he walks John to his room, and John comes on to Kevin, initiating~~  
3 ~~sexual activity. Kevin asks John if he is really up to this, and John says yes. Clothes go flying, and~~  
4 ~~they end up on John's bed. Suddenly, John runs for the bathroom. When he returns, his face is~~  
5 ~~pale, and Kevin thinks he may have thrown up. John gets back into bed, and they begin to have~~  
6 ~~sexual intercourse. Kevin is having a good time, though he can't help but notice that John is pretty~~  
7 ~~groggy and passive, and he thinks John may have even passed out briefly during the sex, but he~~  
8 ~~does not let that stop him. When Kevin runs into John the next day, he thanks him for the wild~~  
9 ~~night. John remembers nothing, and decides to make a report to the VP of Student Services. **This is**~~  
10 ~~**a violation of the Non-Consensual Sexual Intercourse definition. Kevin should have known that**~~  
11 ~~**John was incapable of making a rational, reasonable decision about sex. Even if John seemed to**~~  
12 ~~**consent, Kevin was well aware that John had consumed a large amount of alcohol, and Kevin**~~  
13 ~~**thought John was physically ill, and that he passed out during sex. Kevin should be held**~~  
14 ~~**accountable for taking advantage of John in his condition. This is not the level of respectful**~~  
15 ~~**conduct Southeast Tech expects.**~~

#### 16 **APPENDIX E:**

#### 17 **EXAMPLES OF STALKING**

- 18
- 19 ~~1. A student repeatedly shows up at another student's on-campus residence, always notifying her~~  
20 ~~roommates that they are there to see the resident. The student informs housing staff that this~~  
21 ~~visitor wasn't invited and continuously attempts to see them, even so far as waiting for them~~  
22 ~~outside of classes and showing up to their on-campus work study and requesting they go out on a~~  
23 ~~date together. **This is an example of Stalking 1.**~~
- 24
- 25 ~~2. A student working as an on-campus tutor received flowers and gifts delivered to the Success Lab.~~  
26 ~~After learning the gifts were from a student s/he recently tutored, the student thanked the student~~  
27 ~~and stated that it was not necessary and would appreciate the gift deliveries to stop. The student~~  
28 ~~then started leaving notes of love and gratitude on the student's car, both on-campus and at home.~~  
29 ~~Asked again to stop, the student stated by email "You can ask me to stop, but I'm not giving up. We~~  
30 ~~are meant to be together, and I'll do anything necessary to make you have the feelings for me that I~~  
31 ~~have for you." When the tutor did not respond, the student emailed again, "You cannot escape me.~~  
32 ~~I will track you down to the ends of the earth. We are meant to be together". **This is an example of**~~  
33 ~~**Stalking 2.**~~

#### 34 **APPENDIX F:**

#### 35 **QUESTIONS AND ANSWERS**

1 Here are some of the most commonly asked questions regarding Southeast Tech's misconduct policy and  
2 procedures.

3  
4 *Does information about a report remain private?*

5 The privacy of all parties to a report of sexual misconduct must be respected, except insofar as it  
6 interferes with Southeast Tech's obligation to fully investigate allegations of sexual misconduct.  
7 Where privacy is not strictly kept, it will still be tightly controlled on a need-to-know basis.  
8 Southeast Tech will not disseminate information and/or written materials to persons not involved  
9 in the resolution process without consent of both parties. Witnesses are also required to maintain  
10 the privacy of information shared with them during interviews and/or hearings. Violations of the  
11 privacy of the reporting party or the responding party may lead to conduct action by the institute,  
12 though both parties are allowed to share their perspectives and experiences. All parties, including  
13 witnesses, involved in an allegation are strongly encouraged to maintain the privacy of information  
14 and/or written materials.

15  
16 In all resolutions of sexual misconduct, reporting and responding parties will be informed of the  
17 outcome. In some instances, the administration also may choose to make a brief public  
18 announcement of the nature of the violation and the action taken, without using the name or  
19 identifiable information of the alleged victim. Certain administrators are informed of the outcome  
20 within the bounds of student privacy. If there is a report of an act of alleged sexual misconduct to a  
21 conduct officer of the institute and there is evidence that a felony has occurred, local police will be  
22 notified. This does not mean that charges will be automatically filed or that a victim must speak  
23 with the police, but Southeast Tech is legally required to notify law enforcement authorities.  
24 Southeast Tech also must statistically report the occurrence on campus of major violent crimes,  
25 including certain sex offenses, in an "Annual Security Report" of campus crime statistics. This  
26 statistical report does not include personally identifiable information.

27 *Will my parents be told?*

28 Southeast Tech will not inform your parents unless you are under the age of 18, in the case of a  
29 life-threatening situation, or if explicitly requested to do so by the reporting or responding party.  
30 Whether you are the reporting party or the responding party, Southeast Tech's primary  
31 relationship is to the student and not to the parent. However, in the event of major medical,  
32 disciplinary, or academic jeopardy, students are strongly encouraged to inform their parents.

33 *Will the responding party know my identity?*

34 Yes, if Southeast Tech determines there is reasonable cause to believe a violation has occurred and  
35 investigates the matter. The responding party has a right to know the identity of the reporting  
36 party. If there is a hearing, Southeast Tech does provide  
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1 options for questioning without confrontation, including closed-circuit testimony, Skype, using a  
2 room divider or using separate hearing rooms.

3 ~~Do I have to name the responding party?~~

4 Yes, if you want formal disciplinary action to be taken against the responding party. You can report  
5 the incident without the identity of the responding party, but doing so may limit the institute's  
6 ability to respond comprehensively.

7 ~~What do I do if I am accused of sexual misconduct?~~

8 DO NOT contact the reporting party. You may immediately want to contact someone who can act  
9 as your advocate; anyone may serve as your advocate. You may also contact the Vice President of  
10 Student Affairs, who can explain the institute's procedures for addressing sexual misconduct  
11 reports. You may also want to talk to a confidential counselor or seek other community assistance.  
12 See below regarding legal representation.

13 ~~Will I (as a victim) have to pay for counseling/medical care?~~

14 If a physician, hospital, or clinic examines the victim of an alleged rape or sexual offense the  
15 examination shall be provided without cost to the victim. Southeast Tech's on-campus counselors  
16 provide their services free of charge.

17 ~~What about legal advice?~~

18 Victims of criminal sexual assault need not retain a private attorney to pursue criminal prosecution  
19 because representation will be handled by the District Attorney's office. You may want to retain an  
20 attorney if you are considering filing a civil action or are the responding party. The responding party  
21 may retain counsel at their own expense if they determine that they need legal advice about  
22 criminal prosecution and/or the campus conduct proceeding. Both the responding party and the  
23 reporting party may also use an attorney as their advocate during the campus' resolution process.  
24 Attorneys are subject to the same restrictions as other advocates in the process described in the  
25 grievance procedures.

26 ~~What about changing on-campus apartments?~~

27 If you live in Southeast Tech's on-campus apartments, you may request a room change if you want  
28 to move. Room changes under these circumstances are considered emergencies. It is typically  
29 institutional policy that in emergency room changes, the student is moved to the first available  
30 suitable room. If the responding party also lives in the on-campus apartments and you prefer that  
31 s/he be moved to another apartment, that request will be evaluated by the Title IX Coordinator to  
32 determine if it can be honored. Other assistance and modifications available to you might include:

- 33 ● Assistance from Southeast Tech Housing Staff in completing a room relocation;
- 34 ● Arranging to dissolve a housing contract and pro-rating a refund
- 35 ● Help with finding an off-campus residential alternative
- 36 ● Assistance with or rescheduling an academic assignment (paper, exams, etc.) or otherwise  
37 implementing academic assistance;
- 38 ● Taking an incomplete in a class; 17



- ~~Assistance with transferring class sections;~~
- ~~Temporary withdrawal;~~
- ~~Assistance with alternative course completion options;~~
- ~~Escorts to and from campus locations;~~
- ~~On or off-campus counseling assistance;~~
- ~~Transportation assistance or support;~~
- ~~Other accommodations for safety as necessary.~~

*What should I do about preserving evidence of a sexual assault?*

~~Police are in the best position to secure evidence of a crime. Physical evidence of a criminal sexual assault must be collected from the alleged victim's person within 120 hours, though evidence can often be obtained from towels, sheets, clothes, etc. for much longer periods of time. If you believe you have been a victim of a criminal sexual assault, you should go to the nearest Hospital Emergency Room (Sanford USD Medical Center, located at 1305 W 18th St.), before washing yourself or your clothing. The Sexual Assault Nurse Examiner (a specially trained nurse) at the hospital is usually on call 24 hours a day, 7 days a week (call the Emergency Room at 605-333-6688 if you first want to speak to the nurse; ER will refer you). If a victim goes to the hospital, local police will be called, but s/he is not obligated to talk to the police or pursue prosecution. Having the evidence collected in this manner will help keep all options available to a victim, but will not oblige him or her to any course of action. Collecting evidence can assist the authorities in pursuing criminal charges, should the victim decide later to exercise it.~~

~~For the Victim: the hospital staff will collect evidence, check for injuries, address pregnancy concerns and address the possibility of exposure to sexually transmitted infections. If you have changed clothing since the assault, bring the clothing you had on at the time of the assault with you in a clean, sanitary container such as a clean paper grocery bag or wrapped in a clean sheet (plastic containers do not breathe, and may render evidence useless). If you have not changed clothes, bring a change of clothes with you to the hospital, if possible, as they will likely keep the clothes you are wearing as evidence. You can take a support person with you to the hospital, and they can accompany you through the exam, if you want. Do not disturb the crime scene — leave all sheets, towels, etc. that may bear evidence for the police to collect.~~

*Will a victim be sanctioned when reporting a sexual misconduct policy violation if he/she has illegally used drugs or alcohol?*

~~No. The seriousness of sexual misconduct is a major concern and Southeast Tech does not want any of the circumstances (e.g. drug or alcohol use) to inhibit the reporting of sexual misconduct. The institute provides amnesty from any consequences for minor~~

1 policy violations that occur during or come to light as the result of a victim's report of sexual  
2 misconduct.

3  
4 *Will the use of drugs or alcohol affect the outcome of a sexual misconduct conduct resolution?*

5  
6 The use of alcohol and/or drugs by either party will not diminish the responding party's  
7 responsibility. On the other hand, alcohol and/or drug use is likely to affect the reporting party's  
8 memory and, therefore, may affect the resolution of the reported misconduct. A reporting party  
9 must either remember the alleged incident or have sufficient circumstantial evidence, physical  
10 evidence and/or witnesses to prove that policy was violated. If the reporting party does not  
11 remember the circumstances of the alleged incident, it may not be possible to impose sanctions on  
12 the responding party without further corroborating information. Use of alcohol and/or other drugs  
13 will never excuse a violation by a responding party.

14  
15 *Will either party's prior use of drugs and/or alcohol be a factor when reporting sexual misconduct?*

16  
17 Not unless there is compelling reason to believe that prior use or abuse is relevant to the present  
18 matter.

19  
20 *What should I do if I am uncertain about what happened?*

21  
22 If you believe that you have experienced sexual misconduct, but are unsure of whether it was a  
23 violation or the institute's sexual misconduct policy, you should contact Southeast Tech's Title IX  
24 Coordinator (not confidential) or one of Southeast Tech's on-campus counselors.

25  
26 **APPENDIX G:**  
27 **RISK REDUCTION TIPS**

28 Risk reduction tips can often take a victim-blaming tone, even unintentionally. Only those who commit  
29 sexual violence are responsible for those actions. We offer the tips below with no intention to victim-  
30 blame, with recognition that these suggestions may nevertheless help you to reduce your risk of  
31 experiencing a non-consensual sexual act. Below, suggestions to avoid committing a non-consensual  
32 sexual act are also offered:

- 33  
34 ● If you have limits, make them known as early as possible.  
35 ● Tell a sexual aggressor "NO" clearly and firmly.  
36 ● Try to remove yourself from the physical presence of a sexual aggressor.  
37 ● Find someone nearby and ask for help.  
38 ● Take affirmative responsibility for your alcohol intake/drug use and acknowledge that  
39 alcohol/drugs lower your sexual inhibitions and may make you vulnerable to someone who views a  
40 drunk or high person as a sexual opportunity.  
41 ● Take care of your friends and ask that they take care of you. A real friend will challenge you if you  
42 are about to make a mistake. Respect them when they do.

1 ~~If you find yourself in the position of being the initiator of sexual behavior, you owe sexual respect to your~~  
2 ~~potential partner. These suggestions may help you to reduce your risk for being accused of sexual~~  
3 ~~misconduct.~~

- 4
- 5 ~~• Clearly communicate your intentions to your sexual partner and give them a chance to clearly~~  
6 ~~relate their intentions to you.~~
- 7 ~~• Understand and respect personal boundaries.~~
- 8 ~~• DON'T MAKE ASSUMPTIONS about consent; about someone's sexual availability; about whether~~  
9 ~~they are attracted to you; about how far you can go or about whether they are physically and/or~~  
10 ~~mentally able to consent. Your partner's consent should be affirmative and continuous. If there are~~  
11 ~~any questions or ambiguity then you DO NOT have consent.~~
- 12 ~~• Mixed messages from your partner are a clear indication that you should stop, defuse any sexual~~  
13 ~~tension and communicate better. You may be misreading them. They may not have figured out~~  
14 ~~how far they want to go with you yet. You must respect the timeline for sexual behaviors with~~  
15 ~~which they are comfortable.~~
- 16 ~~• Don't take advantage of someone's drunkenness or altered state, even if they willingly consumed~~  
17 ~~alcohol or substances.~~
- 18 ~~• Realize that your potential partner could feel intimidated or coerced by you. You may have a power~~  
19 ~~advantage simply because of your gender or physical presence. Don't abuse that power.~~
- 20 ~~• Understand that consent to some form of sexual behavior does not automatically imply consent to~~  
21 ~~any other forms of sexual behavior.~~
- 22 ~~• Silence, passivity, or non-responsiveness cannot be interpreted as an indication of consent. Read~~  
23 ~~your potential partner carefully, paying attention to verbal and nonverbal communication and body~~  
24 ~~language.~~
- 25
- 26

## 27 GRIEVANCE PROCESS – PROCESS A

28

29 ATIXA 2020 INTERIM MODEL SEXUAL HARASSMENT POLICIES AND PROCEDURES  
30 USE AND ADAPTATION OF THIS MODEL WITH CITATION TO ATIXA IS PERMITTED THROUGH A LIMITED LICENSE TO Southeast Tech. ALL OTHER RIGHTS  
31 RESERVED. ©2020. ATIXA

### 32 1. Definitions

33

34 See Policy JICK/STI

35

### 36 2. Overview

37

38 If a Complainant files a Formal Complaint requesting investigation of allegations of sexual harassment against a  
39 Respondent as defined in policy JICK, Southeast Tech will initiate the Grievance Process known as Process A.

40

41 Process A may also be used to address collateral misconduct (e.g., retaliation, vandalism, physical abuse of  
42 another) arising from the investigation of or occurring in conjunction with the reported alleged sexual  
43 harassment covered under Policy JICK. All other allegations of misconduct unrelated to incidents covered by  
44 Policy JICK will be addressed through procedures described in other policies, procedures, or handbooks.

45

#### 46 a) Advisor

47

48 Southeast Tech will not limit the choice or presence of an Advisor (Appendix A) for either the Complainant

1 or Respondent in any meeting or grievance proceeding; however, Southeast Tech may establish restrictions  
2 regarding the extent to which the Advisor may participate in the proceedings, as long as the restrictions  
3 apply equally to both parties.

4  
5 When Southeast Tech provides the parties the opportunity to have someone other than their Advisor also  
6 present during a grievance proceeding, Southeast Tech will provide both the parties with the same  
7 opportunities.

#### 9 **b) Consolidation of Formal Complaints**

10 Southeast Tech may consolidate Formal Complaints as to allegations of sexual harassment against more  
11 than one Respondent, or by more than one Complainant against one or more Respondents, or by one party  
12 against the other party, where the allegations of sexual harassment arise out of the same facts or  
13 circumstances. Where a grievance process involves more than one Complainant or more than one  
14 Respondent, references this procedure to the singular “party,” “Complainant,” or “Respondent” include the  
15 plural, as applicable.

#### 17 **c) Counterclaims**

18 Southeast Tech is obligated to ensure that the grievance process is not abused for retaliatory purposes.  
19 Southeast Tech permits the filing of counterclaims but uses an initial assessment, described above, to assess  
20 whether the allegations in the counterclaim are made in good faith. Counterclaims by a Respondent may be  
21 made in good faith, but are, on occasion, also made for purposes of retaliation. Counterclaims made with  
22 retaliatory intent will not be permitted.

23 Counterclaims determined to have been reported in good faith will be processed using the Grievance  
24 Process. Investigation of such claims may take place after resolution of the underlying initial allegation, in  
25 which case a delay may occur. Counterclaims may also be resolved through the same investigation as the  
26 underlying allegation, at the discretion of the Title IX Coordinator.

27 When counterclaims are not made in good faith, they will be considered retaliatory and may constitute a  
28 violation of Southeast Tech policy.

#### 29 **d) Disciplinary Sanctions**

30  
31 Disciplinary sanctions are consequences that may be imposed by Southeast Tech on a Respondent who is  
32 found to have violated this policy. Disciplinary sanctions may be punitive and may burden the Respondent.  
33 Disciplinary sanctions cannot be the same as the supportive measures offered by Southeast Tech.

34 See Appendix B for the determination, implementation, and types of disciplinary sanctions.

#### 35 **e) Disabilities Accommodations in the Resolution Process**

36 Southeast Tech is committed to providing reasonable accommodations and support to qualified students,  
37 employees, or others with disabilities to ensure equal access to Southeast Tech’s resolution process.

38  
39 Anyone needing such accommodations or support should contact the Disability Services Coordinator or the  
40 Director of Human Resources, who will review the request and, in consultation with the person requesting  
41 the accommodation and the Title IX Coordinator, determine which accommodations are appropriate and  
42 necessary for full participation in the process.

1 **f) Emergency Removal**

2  
3 **Student Respondent** - Southeast Tech can act to remove a student Respondent entirely or partially from its  
4 education program or activity on an emergency basis when an individualized safety and risk analysis has  
5 determined that an immediate threat to the physical health or safety of any student or other individual  
6 justifies removal. This risk analysis is performed by the Title IX Coordinator.

7  
8 In all cases in which an emergency removal is imposed, the student will be given notice of the action and the  
9 option to request to meet with the Title IX Coordinator prior to such action/removal being imposed, or as  
10 soon thereafter as reasonably possible, to show cause why the action/removal should not be implemented  
11 or should be modified. This meeting is not a hearing on the merits of the allegation(s), but rather is an  
12 administrative process intended to determine solely whether the emergency removal is appropriate. When  
13 this meeting is not requested, objections to the emergency removal will be deemed waived.

14  
15 A student Respondent may be accompanied by an Advisor of their choice when meeting with the Title IX  
16 Coordinator for the show cause meeting. The Respondent will be given access to a written summary of the  
17 basis for the emergency removal prior to the meeting to allow for adequate preparation.

18  
19 The Title IX Coordinator has sole discretion under this policy to implement or stay an emergency removal  
20 and to determine the conditions and duration. Violation of an emergency removal under this policy will be  
21 grounds for discipline, which may include expulsion.

22  
23 Southeast Tech will implement the least restrictive emergency actions possible in light of the circumstances  
24 and safety concerns. At the discretion of the Title IX Coordinator, alternative coursework options may be  
25 pursued to ensure as minimal an academic impact as possible on the parties.

26  
27 **Employee Respondent** - Where the Respondent is a non-student employee, the employee may be placed  
28 on administrative leave (with or without pay) while a grievance process is pending, without needing to meet  
29 the emergency removal standards.

30  
31 **g) Ensuring Impartiality**

32  
33 Any individual materially involved in the administration of the resolution process including the Title IX  
34 Coordinator, Investigator(s), and Decision-maker(s) may neither have nor demonstrate a conflict of interest  
35 or bias for a party generally, or for a specific Complainant or Respondent.

36  
37 The Title IX Coordinator will vet the assigned Pool members to ensure impartiality by ensuring there are no  
38 actual or apparent conflicts of interest or disqualifying biases. The parties may, at any time during the  
39 resolution process, raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will  
40 determine whether the concern is reasonable and supportable. If so, another Pool member will be assigned  
41 and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias  
42 is the Title IX Coordinator, concerns should be raised with the Southeast Tech President.

43  
44 **h) Notice of Participation**

45  
46 Southeast Tech will provide, to a party whose participation is invited or expected, written notice of the date,  
47 time, location, participants, and purpose of all hearings, investigative interviews, or other meetings with  
48 sufficient time for the party to prepare to participate.

49  
50 **i) Preservation of Records/Recordkeeping**

1 Southeast Tech will maintain for a period of at least seven (7) years records of:

- 2
- 3 1. Each sexual harassment investigation including any determination regarding responsibility and any
- 4 audio or audiovisual recording or transcript required under federal regulation;
- 5 2. Any disciplinary sanctions imposed on the Respondent;
- 6 3. Any remedies provided to the Complainant designed to restore or preserve equal access to
- 7 Southeast Tech’s education program or activity;
- 8 4. Any Appeal and the result therefrom;
- 9 5. Any Informal Resolution and the result therefrom;
- 10 6. All materials used to train Title IX Coordinators, Investigators, Decision-makers, and any person who
- 11 facilitates an Informal Resolution process. Southeast Tech will make these training materials
- 12 publicly available on Southeast Tech’s website; and
- 13 7. Any actions, including any supportive measures, taken in response to a report or Formal Complaint
- 14 of sexual harassment, including:
  - 15 a. The basis for all conclusions that the response was not deliberately indifferent;
  - 16 b. Any measures designed to restore or preserve equal access to Southeast Tech’s education
  - 17 program or activity; and
  - 18 c. If no supportive measures were provided to the Complainant, document the reasons why
  - 19 such a response was not clearly unreasonable in light of the known circumstances.
- 20

21 Southeast Tech will also maintain any and all records in accordance with state and federal laws.

22

23 **j) Privacy of the Resolution Process**

24

25 Resolution proceedings are private. All persons present at any time during the resolution process are

26 expected to maintain the privacy of the proceedings in accordance with Southeast Tech policy. Although

27 there is an expectation of privacy around what Investigators share with parties during interviews, the parties

28 have discretion to share their own knowledge and evidence with others if they so choose, with the

29 exception of information the parties agree not to disclose related to an Informal Resolution. Southeast Tech

30 encourages parties to discuss any sharing of information with their Advisors before doing so.

31

32 **k) Remedies**

33

34 Following the conclusion of the resolution process, where a determination of responsibility of sexual

35 harassment has been made against the Respondent, remedies may be directed to the Complainant to

36 restore or preserve equal access to Southeast Tech’s education program or activity. Remedies may consist

37 of supportive measures, but remedies may also include actions that in fact burden the Respondent or are

38 punitive or disciplinary in nature. The Title IX Coordinator is responsible for effective implementation of any

39 remedies.

40

41 Southeast Tech will maintain the privacy of any remedies, provided privacy does not impair Southeast Tech’s

42 ability to provide these services.

43

44 These remedies may include, but are not limited to:

- 45
- 46 ● Referral to counseling and health services
- 47 ● Referral to the Employee Assistance Program
- 48 ● Education to the individual and/or the community
- 49 ● Permanent alteration of work arrangements for employees
- 50 ● Climate surveys
- 51 ● Policy modification and/or training

- Implementation of long-term contact limitations between the parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

#### **l) Revision of Policy JICK/STC and JICK-R/STC**

Policy JICK/STC and Procedures JICK-R/STC supersede any previous policy(ies) addressing harassment, sexual misconduct and/or retaliation under Title IX and will be reviewed and updated annually by the Title IX Coordinator. Southeast Tech reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

During the resolution process, the Title IX Coordinator may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules. The Title IX Coordinator may also vary procedures materially with notice (on the institutional website, with the appropriate effective date identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in Policy JICK/STC or Procedures JICK-R/STC.

If government laws or regulations change – or court decisions alter – the requirements in a way that impacts this document, this document will be construed to comply with the most recent government regulations or holdings.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such policies and codes, generally.

#### **m) Statement of Rights of the Parties**

Please read Appendix C for a Statement of Rights of the Parties.

#### **n) Withdrawal or Resignation While Charges Pending**

##### **1. Students:**

Should a student Respondent permanently withdraw from Southeast Tech, the resolution process ends, as Southeast Tech no longer has disciplinary jurisdiction over the withdrawn student. However, Southeast Tech will continue to address and remedy any systemic issues, variables that may have contributed to the alleged violation(s), and any ongoing effects of the alleged sexual harassment.

The student who withdraws or leaves while the process is pending may not return to Southeast Tech. Such exclusion applies to all campuses of Southeast Tech. A hold will be placed on their ability to be readmitted. They may also be barred from Southeast Tech property and/or events.

##### **2. Employees:**

Should an employee Respondent resign or exit employment with unresolved allegations pending, the resolution process ends, as Southeast Tech no longer has disciplinary jurisdiction over the Respondent.

However, Southeast Tech will continue to address and remedy any systemic issues, variables that contributed to the alleged violation(s), and any ongoing effects of the alleged harassment.

The employee who resigns or exits employment with unresolved allegations pending is not eligible for rehire with Southeast Tech or any campus of Southeast Tech, and the records retained by the Title IX Coordinator and the Director of Human Resources will reflect that status.

1  
2  
3  
4

All Southeast Tech responses to future inquiries regarding employment references for that individual will include that the former employee resigned during a pending disciplinary matter.



## PROCESS A

### 1. Meeting With the Complainant

Upon receipt of a Formal Complaint, the Title IX Coordinator works with the Complainant to make sure the Formal Complaint is correctly completed, provides supportive measures (as described in Policy JICK), if not already done, and explains the Grievance Process.

### 2. Initial Assessment

The Title IX Coordinator reviews the Formal Complaint for applicability under Policy JICK. The Title IX Coordinator shall determine whether the conduct alleged, if taken as true, would constitute sexual harassment as defined in Policy JICK, and if the allegations contained in the Formal Complaint occurred in Southeast Tech’s education program or activity.

If the Title IX Coordinator determines that Policy JICK does not apply to some aspects of the Formal Complaint or to the Formal Complaint in its entirety, and therefore, those aspects will be “dismissed”, the parties will be notified through the Notice of Investigation of Allegations (NOIA). The parties have the right to appeal the Dismissal (Appendix D) as described in the Appeal process (Appendix E).

Please note that dismissing aspects of a Formal Complaint or a Formal Complaint in its entirety under Title IX is solely a procedural requirement under Title IX and does not limit Southeast Tech’s authority to address the Formal Complaint with an appropriate process and remedies. For the aspects of the Formal Complaint that do not fall under Policy JICK, the Title IX Coordinator will assess which policies/procedures may apply. If another policy and/or procedure applies, the matter will be referred for action under the appropriate policy and/or procedure which will be referenced as Process B.

### 3. Notice of Investigation of Allegations (NOIA) –

After reviewing the Formal Complaint and the Grievance Process with the Complainant and completing the initial assessment, the Title IX Coordinator will provide written notice of the investigation and allegations (the “NOIA”) to the Respondent. This facilitates the Respondent’s ability to prepare for the interview and to identify and choose an Advisor to accompany them. The NOIA is also copied to the Complainant, who is to be given advance notice of when the NOIA will be delivered to the Respondent.

The NOIA will include:

- Southeast Tech’s Grievance Process for allegations of violations of Southeast Tech Policy JICK, including, if applicable, any Informal Resolution process (a copy of this procedure is to be provided),
- A meaningful summary of all the allegations of sexual harassment potentially constituting sexual harassment as defined in Policy JICK,
- The identity of the involved parties in the incident (if known),
- The conduct allegedly constituting sexual harassment under Policy JICK,
- The date and location of the alleged incident(s) (if known),
- A statement that Southeast Tech presumes the Respondent is not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the Grievance Process,
- Information on the need for each party to have an Advisor of their choosing, who may be, but is not required to be, an attorney and suggestions for ways to identify an Advisor,
- A statement informing the parties that Southeast Tech’s policy JICK prohibits knowingly making false statements, including knowingly submitting false information during the resolution process.

1 Amendments and updates to the NOIA may be made as the investigation progresses and more information  
2 becomes available regarding the addition or dismissal of various allegations.

3  
4 The NOIA and any amendments or updates will be made simultaneously to the parties in writing and may be  
5 delivered by one or more of the following methods: in person, mailed to the local or permanent address(es) of  
6 the parties as indicated in official Southeast Tech records, emailed to the parties' Southeast Tech-issued email,  
7 or mailed to the local or permanent address(es) of the parties as indicated in official Southeast Tech records.  
8 Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

#### 9 10 **4. Informal Resolution Option**

11  
12 If an Informal Resolution option is requested by either the Complainant or the Respondent, the Title IX  
13 Coordinator assesses whether the Formal Complaint is suitable for Informal Resolution. If the Title IX  
14 Coordinator determines an Informal Resolution is viable, the Title IX Coordinator will determine if the both  
15 parties are willing to engage in Informal Resolution.

16  
17 Informal Resolution process and options are in Appendix F.

#### 18 19 **5. Formal Resolution**

##### 20 21 **a) Grievance Process Pool**

22  
23 The Formal Grievance Process relies on a pool of individuals ("the Pool") to carry out the process. The  
24 Grievance Process Pool includes any Investigator and Decision-maker(s) who may perform any or all of  
25 these roles (though not at the same time or with respect to the same case).

26  
27 Pool members are appointed by the Title IX Coordinator. The Pool acts with independence and impartiality.

##### 28 29 **b) Resolution Timeline**

30  
31 Southeast Tech will make a good faith effort to complete the resolution process within a sixty-to-ninety (60-  
32 90) day time period, including appeal, which can be extended as necessary for appropriate cause by the  
33 Title IX Coordinator, who will provide notice and rationale for any extensions or delays to the parties as  
34 appropriate, as well as an estimate of how much additional time will be needed to complete the process.

##### 35 36 **c) Temporary Delays and Extension of Time For Good Cause in the Resolution Process**

37  
38 Southeast Tech may undertake a short delay or provide an extension of time in its resolution process  
39 (several days to a few weeks) for good cause. Such circumstances may include but are not limited to: the  
40 absence of a party, a party's Advisor, or a witness; concurrent law enforcement activity with law  
41 enforcement asking to temporarily delay the Grievance Process; or the need for accommodation of  
42 disabilities.

43  
44 Southeast Tech will communicate in writing the time extension or anticipated duration of the delay and the  
45 reason to the parties and provide the parties with status updates if necessary. Southeast Tech will promptly  
46 resume the resolution process as soon as feasible. During such a delay, Southeast Tech will implement  
47 supportive measures as deemed appropriate.

48  
49 Southeast Tech action(s) or processes are not typically altered or precluded on the grounds that civil or  
50 criminal charges involving the underlying incident(s) have been filed or that criminal charges have been  
51 dismissed or reduced.

1  
2 **d) Appointment of Investigators**  
3

4 Once the decision to commence a formal investigation is made, the Title IX Coordinator appoints  
5 Investigator(s) to conduct the investigation, usually within two (2) days of determining that an investigation  
6 should proceed.

7  
8 **e) Objective Evaluation of Evidence**  
9

10 The Formal Grievance Process involves an objective evaluation of all relevant evidence obtained, including  
11 evidence that supports that the Respondent engaged in a policy violation and evidence that supports that  
12 the Respondent did not engage in a policy violation. Credibility determinations may not be based solely on  
13 an individual's status or participation as a Complainant, Respondent, or witness.

14  
15 Southeast Tech operates with the presumption that the Respondent is not responsible for the reported  
16 misconduct unless and until the Respondent is determined to be responsible for a policy violation by the  
17 applicable standard of proof.

18  
19 **f) Investigation Timeline**  
20

21 Investigations are completed expeditiously, normally within thirty (30) days, though some investigations  
22 may take weeks or even months, depending on the nature, extent, and complexity of the allegations,  
23 availability of witnesses, police involvement, etc.

24  
25 Southeast Tech will make a good faith effort to complete investigations as promptly as circumstances  
26 permit and will communicate regularly with the parties to update them on the progress and timing of the  
27 investigation.

28  
29 **g) Steps in the Investigation Process**  
30

31 All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with  
32 all relevant parties and witnesses; obtaining available, and relevant evidence.

33  
34 Southeast Tech will ensure that the burden of proof and the burden of gathering evidence sufficient to  
35 reach a determination regarding responsibility rest on Southeast Tech and not on the parties provided that  
36 Southeast Tech cannot access, consider, disclose, or otherwise use a party's records that are made or  
37 maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional  
38 acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made  
39 and maintained in connection with the provision of treatment to the party, unless Southeast Tech obtains  
40 that party's voluntary, written consent to do so for the Grievance Process.

41  
42 All parties have an equal opportunity, through the investigation process, to present witnesses, including fact  
43 and expert witnesses, to provide inculpatory and exculpatory evidence, and to fully review and respond to  
44 all evidence on the record. Southeast Tech will not restrict the ability of either party to discuss the  
45 allegations under investigation or to gather and present relevant evidence.

46  
47 The Investigator takes the following steps, if not already completed (not necessarily in this order):

- 48
  - Identify all policies implicated by the alleged misconduct
- 49

- 1 ● Commence a thorough, reliable, and impartial investigation by identifying issues and developing  
2 a strategic investigation plan, including a witness list, evidence list, intended investigation  
3 timeframe, and order of interviews for all witnesses and the parties  
4
- 5 ● Provide, to a person whose participation is invited or expected, written notice of the date, time,  
6 location, participants, and purpose of the investigative interview with sufficient time for the  
7 person to prepare to participate  
8
- 9 ● Interview all available, relevant witnesses and conduct follow-up interviews as necessary  
10
- 11 ● Gather, assess, and synthesize evidence, but make no conclusions and render no  
12 recommendations as part of their report  
13
- 14 ● Perform an objective evaluation of all relevant evidence – including both inculpatory and  
15 exculpatory evidence – and provide that credibility determinations may not be based on a  
16 person’s status as a Complainant, Respondent, or witness  
17
- 18 ● Provide regular status updates to the parties throughout the investigation  
19
- 20 ● Write an Initial Investigation Report fully summarizing the investigation, all witness interviews,  
21 and fairly addressing all relevant evidence and provide the report to the parties and the parties’  
22 Advisor, if any, for review and a written response:
  - 23 ○ The Initial Investigation Report must provide both parties an equal opportunity to inspect  
24 and review any evidence obtained as part of the investigation that is directly related to the  
25 allegations raised in a Formal Complaint, including the evidence upon which Southeast Tech  
26 does not intend to rely in reaching a determination regarding responsibility and inculpatory  
27 or exculpatory evidence whether obtained from a party or other source, so that each party  
28 can meaningfully respond to the evidence prior to conclusion of the investigation  
29
  - 30 ○ Southeast Tech will send to each party and the party’s Advisor, if any, the Initial  
31 Investigation Report and evidence subject to inspection and review in an electronic format  
32 or a hard copy, and the parties will have at least 10 days to submit a written response,  
33 which the Investigator will consider prior to completion of the Final Investigation Report.  
34 The parties may elect to waive the full ten days  
35
  - 36 ○ Southeast Tech will also make all such evidence subject to the parties’ inspection and review  
37 available at any hearing to give each party equal opportunity to refer to such evidence  
38 during the hearing, including for purposes of cross-examination  
39
- 40
- 41 ● The Investigator may elect to respond in writing in the Initial Investigation Report to the parties’  
42 submitted responses and/or to share the responses between the parties for additional  
43 responses  
44
- 45 ● The Investigator will incorporate relevant elements of the parties’ written responses into the  
46 Final Investigation Report, include any additional relevant evidence, make any necessary  
47 revisions, and finalize the report. The Investigator should document all rationales for any  
48 changes made after the review and comment period  
49
- 50 ● The Investigator shares the report with the Title IX Coordinator for their review and feedback  
51

- The Investigator will incorporate any relevant feedback and additional relevant evidence (if applicable), and the Final Investigation Report is then shared with all parties and their Advisors, if any, through secure electronic transmission or hard copy at least ten (10) days prior to a hearing

#### **h) Role and Participation of Witnesses in the Investigation**

Witnesses (as distinguished from the parties) who are employees of Southeast Tech are expected to cooperate with and participate in Southeast Tech’s investigation and resolution process. Failure of such witnesses to cooperate with and/or participate in the investigation or resolution process constitutes a violation of policy and may warrant discipline.

Although in-person interviews for parties and all potential witnesses are ideal, circumstances (e.g., clinical placement, summer break) may require individuals to be interviewed remotely. Zoom, Microsoft Teams, FaceTime, or similar technologies may be used for interviews if the Investigator determines that timeliness or efficiency dictate a need for remote interviewing. Southeast Tech will take appropriate steps to reasonably ensure the security/privacy of remote interviews.

#### **i) Recording of Interviews**

No unauthorized audio or video recording of any kind is permitted during investigation meetings. If the Investigator elects to audio and/or video record interviews, all involved parties must be made aware of audio and/or video recording.

#### **j) Evidentiary Considerations in the Investigation**

The investigation does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the parties; or 3) questions and evidence about the Complainant’s sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant’s prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant’s prior sexual behavior with respect to the Respondent and are offered to prove consent.

#### **k) Referral for Hearing**

Provided that the Formal Complaint is not resolved through Informal Resolution, once the Final Investigation Report is shared with the parties, the Title IX Coordinator will refer the matter for a hearing.

The hearing cannot be less than ten (10) days from the conclusion of the investigation –when the Final Investigation Report is transmitted to the parties and the Hearing Decision-maker–unless all parties and the Decision-maker agree to an expedited timeline.

The Title IX Coordinator will select an appropriate Hearing Decision-maker.

#### **l) Hearing Decision-maker Composition**

Southeast Tech will designate a single Decision-maker. The single Decision-maker will also Chair the hearing.

The Decision-maker will not have had any previous involvement with the investigation. The Title IX Coordinator may elect to have an alternate Decision-maker sit in throughout the hearing process in the event that a substitute is needed for any reason.

1 Those who have served as Investigators will be witnesses in the hearing and therefore may not serve as  
2 Decision-makers. Those who are serving as Advisors for any party may not serve as Decision-makers in that  
3 matter.

4  
5 The Title IX Coordinator may not serve as a Decision-maker or Chair in the matter but may serve as an  
6 administrative facilitator of the hearing if their previous role in the matter do not create a conflict of  
7 interest. Otherwise, a designee may fulfill this role. The hearing will convene at a time determined by the  
8 Chair or designee.

9  
10 **m) Evidentiary Considerations in the Hearing**

11  
12 Any evidence that the Decision-maker determines is relevant and credible may be considered. The hearing  
13 does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern;  
14 2) the character of the parties; or 3) questions and evidence about the Complainant's sexual predisposition  
15 or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior  
16 are offered to prove that someone other than the Respondent committed the conduct alleged by the  
17 Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual  
18 behavior with respect to the Respondent and are offered to prove consent.

19  
20 Previous disciplinary action of any kind involving the Respondent may be considered in determining an  
21 appropriate disciplinary sanction upon a determination of responsibility. This information is only considered  
22 at the disciplinary sanction stage of the process and is not shared until then.

23  
24 After post-hearing deliberation, the Decision-maker renders a determination based on the preponderance  
25 of the evidence; whether it is more likely than not that the Respondent violated the Policy as alleged.

26  
27 **n) Notice of Hearing**

28  
29 No less than ten (10) days prior to the hearing, the Title IX Coordinator will send notice of the hearing to the  
30 parties. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

31  
32 The notice will contain:

- 33
- 34 ● A description of the alleged violation(s), a list of all policies allegedly violated, a description of the  
35 applicable procedures, and a statement of the potential disciplinary sanctions that could result.
- 36
- 37 ● The time, date, and location of the hearing and a reminder that attendance is mandatory,  
38 superseding all other campus activities.
- 39
- 40 ● Any technology that will be used to facilitate the hearing.
- 41
- 42 ● Information about the option for the live hearing to occur with the parties located in separate  
43 rooms using technology that enables the Decision-maker and parties to simultaneously see and hear  
44 a party or witness answering questions. Such a request must be raised with the Title IX Coordinator  
45 at least five (5) days prior to the hearing.
- 46
- 47 ● A list of all those who will attend the hearing, along with an invitation to object to any Decision-  
48 maker on the basis of demonstrated bias. This must be raised with the Title IX Coordinator at least  
49 five (5) days prior to the hearing.
- 50
- 51 ● Information on how the hearing will be recorded and on access to the recording for the parties after

1 the hearing.

- 2
- 3 ● A statement that if any party or witness does not appear at the scheduled hearing, the hearing may
- 4 be held in their absence, and the party's or witness's testimony and any statements given prior to
- 5 the hearing will not be considered by the Decision-maker. For compelling reasons, the Decision-
- 6 maker or Title IX Coordinator may reschedule the hearing.
- 7
- 8 ● Notification that the parties may have the assistance of an Advisor of their choosing at the hearing
- 9 and will be required to have one present for any questions they may desire to ask. The party must
- 10 notify the Title IX Coordinator if they do not have an Advisor, and Southeast Tech will appoint one.
- 11 Each party must have an Advisor present. There are no exceptions.
- 12
- 13 ● A copy of all the materials that will be provided to or have been provided to the Decision-maker
- 14 about the matter, unless they have been provided already.
- 15
- 16 ● An invitation to contact the Title IX Coordinator to arrange any disability accommodations that may
- 17 be needed at the hearing, at least seven (7) days prior to the hearing.
- 18
- 19 ● Whether parties can/cannot bring mobile phones/devices into the hearing.
- 20

21 Hearings for possible violations that occur near or after the end of an academic term (assuming the

22 Respondent is still subject to Policy JICK) and are unable to be resolved prior to the end of term will typically

23 be held immediately after the end of the term or during the summer, as needed, to meet the resolution

24 timeline followed by Southeast Tech and remain within the 60-90 day goal for resolution.

25

26 In these cases, if the Respondent is a graduating student, a hold may be placed on graduation and/or official

27 transcripts until the matter is fully resolved (including any appeal).

28

#### 29 **o) Alternative Hearing Participation Options**

30

31 If a party or parties prefer not to attend or cannot attend the hearing in person, the party should request

32 alternative arrangements from the Title IX Coordinator at least five (5) days prior to the hearing.

33

34 The Title IX Coordinator can arrange to use technology to allow remote testimony without compromising

35 the fairness of the hearing. Remote options may also be needed for witnesses who cannot appear in person.

36 Any witness who cannot attend in person should let the Title IX Coordinator know at least five (5) days prior

37 to the hearing so that appropriate arrangements can be made.

38

#### 39 **p) Preparation for the Hearing**

40

41 The Title IX Coordinator, after any necessary consultation with the parties and the Pool, will provide the

42 names of persons who will be participating in the hearing, all pertinent documentary evidence, and the Final

43 Investigation Report to the parties at least ten (10) days prior to the hearing, if not already done.

44

45 Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator,

46 unless all parties and the Chair assent to the witness's participation in the hearing. The same holds for any

47 evidence that is first offered at the hearing. If the parties and Chair do not assent to the admission of

48 evidence newly offered at the hearing, the Chair may delay the hearing and instruct that the investigation

49 needs to be re-opened to consider that evidence.

50

1 The parties will be given the name of the Decision-maker at least ten (10) days in advance of the hearing. All  
2 objections to any Decision-maker must be raised in writing, detailing the rationale for the objection, and  
3 must be submitted to the Title IX Coordinator as soon as possible and no later than five (5) days prior to the  
4 hearing. Decision-makers will only be removed if the Title IX Coordinator concludes that their bias or conflict  
5 of interest precludes an impartial hearing of the allegation(s).

6  
7 The Title IX Coordinator will give the Decision-maker a list of the names of all parties, witnesses, and  
8 Advisors at least five (5) days in advance of the hearing. Any Decision-maker who cannot make an objective  
9 determination must recuse themselves from the proceedings when notified of the identity of the parties,  
10 witnesses, and Advisors in advance of the hearing. If a Decision-maker is unsure of whether a bias or conflict  
11 of interest exists, they must raise the concern to the Title IX Coordinator as soon as possible.

#### 12 13 **q) Pre-Hearing Meetings**

14  
15 The Chair may, but is not required to, convene a pre-hearing meeting(s) with the parties and their Advisors  
16 to invite them to submit the questions or topics they (the parties and their Advisors) wish to ask or discuss  
17 at the hearing, so that the Chair can rule on their relevance ahead of time to avoid any improper evidentiary  
18 introduction in the hearing or provide recommendations for more appropriate phrasing. However, this  
19 advance review opportunity does not preclude the Advisors from asking a question for the first time at the  
20 hearing or from asking for a reconsideration based on any new information or testimony offered at the  
21 hearing. The Chair must document and share with each party their rationale for any exclusion or inclusion at  
22 a pre-hearing meeting.

23  
24 At each pre-hearing meeting with a party and their Advisor, the Chair will consider arguments that evidence  
25 identified in the Final Investigation Report as relevant is, in fact, not relevant. Similarly, evidence identified  
26 as directly related but not relevant by the Investigator(s) may be argued to be relevant.

27  
28 The Chair may rule on these arguments pre-hearing and will exchange those rulings between the parties  
29 prior to the hearing to assist in preparation for the hearing. The Chair may consult with legal counsel and/or  
30 the Title IX Coordinator or ask either or both to attend pre-hearing meetings. The legal counsel may not be  
31 the general legal counsel for Southeast Tech.

32  
33 The pre-hearing meeting(s) will be recorded.

#### 34 35 **r) Hearing Procedures**

36  
37 At the hearing, the Decision-maker has the authority to hear and make determinations on all allegations of  
38 sexual harassment and may also hear and make determinations on any additional alleged policy violations  
39 that have occurred in concert with the sexual harassment, even though those collateral allegations may  
40 not specifically fall within the Policy.

41  
42 Participants at the hearing will include the Chair/Decision-maker, the hearing facilitator(s), the Investigator  
43 who conducted the investigation, the parties, Advisors to the parties, any called witnesses, the Title IX  
44 Coordinator, and anyone providing authorized accommodations or assistive services.

45  
46 The Chair will answer all questions of procedure. Anyone appearing at the hearing to provide information  
47 will respond to questions on their own behalf.

48  
49 The Chair will allow witnesses who have relevant information to appear at a portion of the hearing in order  
50 to respond to specific questions from the Decision-maker and the parties and will then be excused.



1 **s) Joint Hearings**

2  
3 In hearings involving more than one Respondent or in which two (2) or more Complainants have accused the  
4 same individual of substantially similar conduct, the default procedure will be to hear the allegations jointly.

5  
6 However, the Title IX Coordinator may permit the investigation and/or hearings pertinent to each  
7 Respondent to be conducted separately if there is a compelling reason to do so. In joint hearings, separate  
8 determinations of responsibility will be made for each Respondent with respect to each alleged policy  
9 violation.

10  
11 **t) The Order of the Hearing – Introductions and Explanation of Procedure**

12 The Chair explains the procedures and introduces the participants. The Chair with assistance from the  
13 hearing facilitator then conducts the hearing according to the hearing script.

14 Elements of the hearing include, but are not limited to, recording, witness logistics, party logistics, curation  
15 of documents, separation of the parties, and other administrative elements of the hearing, which are  
16 managed by the hearing facilitator(s). The hearing facilitator(a) may also attend to: logistics of rooms for  
17 various parties/witnesses as they wait; flow of parties/witnesses in and out of the hearing space; ensuring  
18 recording and/or virtual conferencing technology is working as intended; copying and distributing materials  
19 to participants, as appropriate, etc.

20 **u) Investigator Presents the Final Investigation Report**

21 The Investigator will then present a summary of the Final Investigation Report and will be subject to  
22 questioning by the Decision-maker and the parties (through their Advisors). The Investigator will be present  
23 during the entire hearing process, but not during deliberations.

24 Neither the parties nor the Decision-maker should ask the Investigator their opinions on credibility,  
25 recommended findings, or determinations, and the Investigator, Advisors, and parties will refrain from  
26 discussion of or questions about these assessments. If such information is introduced, the Chair will direct  
27 that it be disregarded.

28 **v) Testimony and Questioning**

29 Once the Investigator presents their report and are questioned, the parties and witnesses may provide  
30 relevant information in turn, beginning with the Complainant, and then in the order determined by the  
31 Chair. The parties/witnesses will submit to questioning by the Decision-maker and then by the parties  
32 through their Advisors (“cross-examination”). The Decision-maker must permit each party’s Advisor to ask  
33 the other party and any witnesses all relevant questions and follow-up questions, including those  
34 challenging credibility. All questions will be subjected to a relevance determination by the Chair.

35 The Advisor, who will remain seated during questioning, will pose the proposed question directly, orally, and  
36 in real time, the proceeding will pause to allow the Chair to consider it, and the Chair will determine  
37 whether the question will be permitted, disallowed, or rephrased. The Chair may invite explanations or  
38 persuasive statements regarding relevance with the Advisors, if the Chair so chooses. The Chair will then  
39 state their decision on the question for the record and advise the party/witness to whom the question was  
40 directed, accordingly. The Chair will explain any decision to exclude a question as not relevant, or to reframe  
41 it for relevance.

42 The Chair will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus

1 irrelevant), or abusive. The Chair has final say on all questions and determinations of relevance. The Chair  
2 may ask Advisors to frame why a question is or is not relevant from their perspective but will not entertain  
3 argument from the Advisors on relevance once the Chair has ruled on a question.

#### 4 **w) Refusal to Submit to Cross-Examination and Inferences**

5 If a party or witness chooses not to submit to cross-examination at the hearing, either because they do not  
6 attend the meeting, or they attend but refuse to participate in questioning, then the Decision-maker may  
7 not rely on any prior statement made by that party or witness at the hearing (including those contained in  
8 the investigation report) in the ultimate determination of responsibility. The Decision-maker must disregard  
9 that statement. Evidence provided that is something other than a statement by the party or witness may be  
10 considered.

11 If the party or witness attends the hearing and answers some cross-examination questions, only statements  
12 related to the cross-examination questions they refuse to answer cannot be relied upon. However, if the  
13 statements of the party who is refusing to submit to cross-examination or refuses to attend the hearing are  
14 the subject of the allegation itself (e.g., the case is about verbal harassment or a quid pro quo offer), then  
15 those statements are not precluded from admission. Similarly, statements can be relied upon when  
16 questions are posed by the Decision-maker, as distinguished from questions posed by Advisors through  
17 cross-examination.

18 The Decision-maker may not draw any inference solely from a party's or witness's absence from the hearing  
19 or refusal to answer cross-examination or other questions.

20 If charges of policy violations other than sexual harassment are considered at the same hearing, the  
21 Decision-maker may consider all evidence it deems relevant, may rely on any relevant statement as long as  
22 the opportunity for cross-examination is afforded to all parties through their Advisors, and may draw  
23 reasonable inferences from any decision by any party or witness not to participate or respond to questions.

24 If a party's Advisor of choice refuses to comply with Southeast Tech's established rules of decorum for the  
25 hearing, Southeast Tech may require the party to use a different Advisor. If a Southeast Tech-provided  
26 Advisor refuses to comply with the rules of decorum, Southeast Tech may provide that party with a different  
27 Advisor to conduct cross-examination on behalf of that party.

#### 28 **x) Recording Hearings**

29  
30 Hearings (but not deliberations) are recorded by Southeast Tech for purposes of review in the event of an  
31 Appeal. If a recording is not feasible, a transcript will be made. The parties may not record the proceedings  
32 and no other unauthorized recordings are permitted.

33  
34 The Decision-maker, the parties, their Advisors, and appropriate administrators of Southeast Tech will be  
35 permitted to listen to the recording or review the transcript in a controlled environment determined by the  
36 Title IX Coordinator. No person will be given or be allowed to make a copy of the recording or transcript  
37 without permission of the Title IX Coordinator.

---

#### 39 **y) Deliberation, Decision-making, and Standard of Proof**

40  
41 The Decision-maker will deliberate in closed session to determine whether the Respondent is responsible or  
42 not responsible for the policy violation(s) in question. The preponderance of the evidence standard of proof  
43 is used.

44  
45 The Decision-maker will then prepare a written deliberation statement and deliver it to the Title IX

1 Coordinator, detailing the determination, rationale, the evidence used in support of its determination, the  
2 evidence not relied upon in its determination, and credibility assessments.

3  
4 This report must be submitted to the Title IX Coordinator within two (2) days of the end of deliberations,  
5 unless the Title IX Coordinator grants an extension. If an extension is granted, the Title IX Coordinator will  
6 notify the parties.

7  
8 If the Decision-maker determines the Respondent is responsible for the policy violation(s) in question, the  
9 Title IX Coordinator will determine any remedies and start the disciplinary sanction process as described in  
10 Appendix B.

11  
12 **z) Notice of Outcome**

13  
14 Using the Hearing Decision-maker's deliberation statement and the Disciplinary Sanctions Decision-maker's  
15 disciplinary sanction(s), if any, the Title IX Coordinator will work with the Decision-maker to prepare a Notice  
16 of Outcome which will include the following:

- 17
- 18 1. Identification of the allegations potentially constituting sexual harassment as defined by Policy JICK;
- 19 2. Identification of violation(s) covered by other Southeast Tech policies that were part of the hearing;
- 20 3. A description of the procedural steps taken from the receipt of the Formal Complaint through the  
21 determination, including any notifications to the parties, interviews with parties and witnesses, site  
22 visits, methods used to gather other evidence, and hearings held;
- 23 4. Findings on each alleged policy violation (findings of fact supporting the determination);
- 24 5. Conclusions regarding the application of the relevant policy to the facts at issue;
- 25 6. A statement of, and rationale for, the result as to each allegation, including a determination  
26 regarding responsibility;
- 27 7. A statement of, any disciplinary sanctions Southeast Tech will impose on the Respondent;
- 28 8. A statement of, whether remedies designed to restore or preserve equal access to Southeast Tech's  
29 education program or activity will be provided by Southeast Tech to the Complainant (the details or  
30 specifics of the remedies are not shared with the Respondent unless the remedy directly relates to  
31 the Respondent);
- 32 9. Southeast Tech's procedures and permissible bases for the Complainant and Respondent to appeal;
- 33 10. Information on when the results are considered by Southeast Tech to be final.

34  
35 The Title IX Coordinator will then simultaneously share the Notice of Outcome with the parties and their  
36 Advisors within seven (7) days of receiving the Decision-maker's deliberation statement. Notification will be  
37 made in writing and may be delivered by one or more of the following methods: in person, mailed to the  
38 local or permanent address of the parties as indicated in official Southeast Tech records, or emailed to the  
39 parties' Southeast Tech-issued email or otherwise approved account. Once mailed, emailed, and/or received  
40 in-person, notice will be presumptively delivered.

GRIEVANCE PROCESS – PROCESS B

When an allegation of discrimination and/or harassment is not covered under Policy JICK/STC and regulation/procedure Process A of JICK-R/STC, the matter may fall under another policy and procedure which is referred to as Process B. The Title IX Coordinator will review all claims of discrimination and claims of harassment to determine which Southeast Tech policy and regulation/procedure applies.

Some of the policies and procedures that may apply include:

- AC/STC and AC-R/STC – Nondiscrimination/Equal Opportunity
- Southeast Tech Student Catalog and Handbook – Student Conduct, Student Rights and Responsibilities, Freedom of Speech, Harassment, Hazing, Student Discipline, Student/Public Complaint Process
- JK/STC and JK-R/STC – Student Discipline
- JIAA/STC and JIAA-R/STC – Harassment (Student)
- JICFA/STC and JICFA-R/STC – Hazing
- GB/STC and Employee Handbook – Equal Employment Opportunity, Discrimination & Harassment-Free Workplace, Complaint Resolution, Standard of Behavior, Correction and Discipline, Grievance
- GBEB/STC and Employee Handbook – Code of Conduct
- GBAA/STC and GBAA-R/STC – Harassment (Employee)
- IB/STC and IB-R/STC– Academic Freedom and Faculty Responsibilities

1 APPENDIX A: ADVISORS

2  
3 Right to an Advisor

4  
5 The parties may each have an Advisor of their choice present with them for all meetings, interviews, and hearings  
6 within the resolution process, if they so choose. The parties may select whoever they wish to serve as their Advisor  
7 as long as the Advisor is eligible and available and does not constitute a conflict of interest (such as an individual  
8 already associated with the grievance process).

9  
10 1. Who Can Serve as an Advisor

11  
12 The Advisor may be a friend, mentor, family member, attorney, or any other individual a party chooses.

13  
14 The parties may choose Advisors from inside or outside of Southeast Tech community. The Title IX  
15 Coordinator will also offer to assign an Advisor for any party if the party so chooses. Southeast Tech cannot  
16 guarantee equal advisory rights, meaning that if one party selects an Advisor who is an attorney, but the  
17 other party does not or cannot afford an attorney, Southeast Tech is not obligated to provide an attorney.

18  
19 2. Advisor's Role

20  
21 Parties have the right to choose not to have an Advisor in the initial stages of the resolution process, prior to  
22 a hearing. Parties must have an Advisor during the hearing process.

23  
24 The parties may be accompanied by their Advisor in all meetings and interviews at which the party is  
25 entitled to be present, including intake and interviews. Advisors should help the parties prepare for each  
26 meeting and are expected to advise ethically, with integrity, and in good faith.

27  
28 Under U.S. Department of Education regulations under Title IX, a form of indirect questioning is required  
29 during the hearing but must be conducted by the parties' Advisors. The parties are not permitted to directly  
30 question each other or any witnesses. If a party does not have an Advisor for a hearing, Southeast Tech will  
31 appoint an Advisor for the limited purpose of conducting any questioning of the other party and witnesses.

32  
33 A party may reject this appointment and choose their own Advisor, but they may not proceed without an  
34 Advisor. If the party's Advisor will not conduct questioning, Southeast Tech will appoint an Advisor who will  
35 do so, regardless of the participation or non-participation of the advised party in the hearing itself. Extensive  
36 questioning of the parties and witnesses may also be conducted by the Decision-maker during the hearing.

37  
38 All Advisors are subject to the same Southeast Tech policies and procedures, whether they are attorneys or  
39 not. Advisors are expected to advise their advisees without disrupting proceedings. Advisors should not  
40 address Southeast Tech officials in a meeting or interview unless invited to (e.g., asking procedural  
41 questions). The Advisor may not make a presentation or represent their advisee during any meeting or  
42 proceeding, and the Advisor may not speak on behalf of the advisee to the Investigator(s) or other Decision-  
43 maker(s) except during a hearing proceeding, during cross-examination.

44  
45 The parties are expected to ask and respond to questions on their own behalf throughout the investigation  
46 phase of the resolution process. Although the Advisor generally may not speak on behalf of their advisee,  
47 the Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes  
48 during any resolution process meeting or interview. For longer or more involved discussions, the parties and  
49 their Advisors should ask for breaks to allow for private consultation.

1 Any Advisor who oversteps their role as defined by this procedure will be warned only once. If the Advisor  
2 continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting or proceeding  
3 will be ended, or other appropriate measures implemented. Subsequently, the Title IX Coordinator will  
4 determine how to address the Advisor’s non-compliance and future role.  
5

### 6 **3. Sharing Information with the Advisor**

7 Southeast Tech expects that the parties may wish to have Southeast Tech share documentation and  
8 evidence related to the allegations with their Advisors. Parties may share this information directly with their  
9 Advisor or other individuals if they wish. Doing so may help the parties participate more meaningfully in the  
10 resolution process.

11  
12 Southeast Tech also provides a consent form that authorizes Southeast Tech to share such information  
13 directly with their Advisor. The parties must either complete and submit this form to the Title IX Coordinator  
14 or provide similar documentation demonstrating consent to a release of information to the Advisor before  
15 Southeast Tech is able to share records with an Advisor.

16  
17 If a party requests that all communication be made through their attorney Advisor, Southeast Tech will not  
18 comply with that request.

### 19 20 **4. Privacy of Records Shared with Advisor**

21  
22 Advisors are expected to maintain the privacy of the records shared with them. These records may not be  
23 shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by Southeast  
24 Tech. Southeast Tech may seek to restrict the role of any Advisor who does not respect the sensitive nature  
25 of the process or who fails to abide by Southeast Tech’s privacy expectations.

### 26 27 **5. Expectations of an Advisor**

28  
29 Southeast Tech generally expects an Advisor to adjust their schedule to allow them to attend Southeast  
30 Tech meetings when planned but may change scheduled meetings to accommodate an Advisor’s inability to  
31 attend, if doing so does not cause an unreasonable delay.

32  
33 Southeast Tech may also make reasonable provisions to allow an Advisor who cannot attend in person to  
34 attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and  
35 available.

### 36 37 **6. Expectations of the Parties with Respect to Advisors**

38  
39 A party may elect to change Advisors during the process and is not obligated to use the same Advisor  
40 throughout. The parties are expected to inform the Investigator(s) of the identity of their Advisor at least  
41 two (2) days before the date of their first meeting with Investigators (or as soon as possible if a more  
42 expeditious meeting is necessary or desired).

43  
44 The parties are expected to provide timely notice to the Title IX Coordinator if they change Advisors at any  
45 time. It is assumed that if a party changes Advisors, consent to share information with the previous Advisor  
46 is terminated, and a release for the new Advisor must be secured. Parties are expected to inform the Title IX  
47 Coordinator of the identity of their hearing Advisor at least two (2) days before the hearing.  
48

## APPENDIX B: DISCIPLINARY SANCTIONS

If the Respondent is determined responsible for the allegation(s) of sexual harassment as a result of the resolution process, the Title IX Coordinator appoints a Disciplinary Sanctions Decision-maker to see what, if any, disciplinary sanctions are to be imposed upon the Respondent.

Factors considered by the Disciplinary Sanctions Decision-maker when determining a disciplinary sanction may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- Previous allegations or allegations involving similar conduct
- The need for disciplinary sanctions to bring an end to the sexual harassment
- The need for disciplinary sanctions to prevent the future recurrence of sexual harassment
- The need to remedy the effects of the sexual harassment on the Complainant and the community
- The impact on the parties
- Any other information deemed relevant

The disciplinary sanction(s) determined by the Disciplinary Sanctions Decision-maker will be provided to the Title IX Coordinator for the Hearing Decision-maker to include in the Notice of Outcome.

The disciplinary sanction(s) will be implemented as soon as is feasible, either upon the outcome of any Appeal or the expiration of the window to Appeal without an Appeal being requested.

All Respondents are expected to comply with the assigned disciplinary sanctions within the timeframe specified in the Notice of Outcome. Failure to abide by the disciplinary sanction(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional disciplinary sanction(s), including suspension, expulsion, and/or termination from Southeast Tech. A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator.

The disciplinary sanction(s) described in this Procedure are not exclusive of, and may be in addition to, other actions taken, or disciplinary sanctions imposed, by external authorities. Disciplinary sanctions may include:

### a. Student Disciplinary Sanctions

The following are the usual disciplinary sanctions that may be imposed upon students or organizations singly or in combination:

- *Warning*: A formal statement that the conduct was unacceptable and a warning that further violation of any Southeast Tech policy, procedure, or directive will result in more severe disciplinary sanctions.
- *Required Counseling*: A mandate to meet with and engage in counseling to better comprehend the misconduct and its effects.
- *Conduct Probation*: A written reprimand for violation of institutional policy, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any institutional policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.

- 1 ● Conduct Suspension: Termination of student status for a definite period of time not to exceed two
- 2 years and/or until specific criteria are met. Students who return from suspension are automatically
- 3 placed on conduct probation through the remainder of their tenure as a student at Southeast Tech.
- 4
- 5
- 6 ● Expulsion: Permanent termination of student status and revocation of rights to be on campus for
- 7 any reason or to attend Southeast Tech-sponsored events.
- 8
- 9 ● Organizational Disciplinary sanctions: Deactivation, loss of recognition, loss of some or all privileges
- 10 (including Southeast Tech registration) for a specified period of time.
- 11
- 12 ● Other Actions: In addition to or in place of the above disciplinary sanctions, Southeast Tech may
- 13 assign any other disciplinary sanctions as deemed appropriate.
- 14

15 **b. Employee Disciplinary Sanctions**

16 Disciplinary sanctions for an employee who has engaged in sexual harassment may include:

- 17
- 18
- 19 ● Warning – Verbal or Written
- 20 ● Performance Improvement Plan
- 21 ● Enhanced supervision, observation, or review
- 22 ● Required Counseling
- 23 ● Required Training or Education
- 24 ● Probation
- 25 ● Denial of Pay Increase/Pay Grade
- 26 ● Loss of Oversight or Supervisory Responsibility
- 27 ● Demotion
- 28 ● Transfer
- 29 ● Reassignment
- 30 ● Assignment to new supervisor
- 31 ● Restriction of stipends, research, and/or professional development resources
- 32 ● Suspension with pay
- 33 ● Suspension without pay
- 34 ● Termination
- 35 ● Other Actions: In addition to or in place of the above disciplinary sanctions, Southeast Tech may
- 36 assign any other disciplinary sanctions as deemed appropriate.
- 37



APPENDIX C: STATEMENT OF RIGHTS OF THE PARTIES

- The right to an equitable investigation and resolution of all credible allegations of prohibited sexual harassment reported to the Title IX Coordinator or an OWA.
- The right to timely written notice of all alleged violations, including the identity of the parties involved (if known), the precise misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated policies and procedures, and possible disciplinary sanctions.
- The right to timely written notice of any material adjustments to the allegations (e.g., additional incidents or allegations, additional Complainants, unsubstantiated allegations) or to clarify potentially implicated policy violations.
- The right not to have any personally identifiable information released to the public without consent provided, except to the extent permitted by law.
- The right to be treated with respect by Southeast Tech officials and the Title IX Team.
- The right to have Southeast Tech policies and procedures followed without material deviation.
- The right not to be pressured to informally resolve any reported sexual harassment.
- The right not to be discouraged by Southeast Tech officials from reporting sexual harassment to both on-campus and off-campus authorities.
- The right to be informed by Southeast Tech officials of options to notify proper law enforcement authorities, and the option(s) to be assisted by Southeast Tech authorities in notifying such authorities, if the party so chooses. This also includes the right not to be pressured to report, as well.
- The right to have allegations of violations of this Policy responded to promptly and with sensitivity by Southeast Tech.
- The right to be informed of available interim actions and supportive measures.
- The right to receive sufficiently advanced, written notice of any meeting or interview involving the other party, when possible.
- The right to ask the Investigator(s) and Decision-maker(s) to identify and question relevant witnesses, including expert witnesses.
- The right to provide the Investigator(s)/Decision-maker(s) with a list of questions that, if deemed relevant by the Investigator(s)/Chair, may be asked of any party or witness.
- The right not to have irrelevant prior sexual history or character admitted as evidence.
- The right to know the relevant and directly related evidence obtained and to respond to that evidence.
- The right to a fair opportunity to provide the Investigator(s) with their account of the alleged misconduct and have that account be on the record.

- 1 ● The right to receive a copy of the investigation report, including all factual, policy, and/or credibility analyses  
2 performed, and all relevant and directly related evidence available and used to produce the investigation report,  
3 subject to the privacy limitations imposed by state and federal law, prior to the hearing, and the right to have at  
4 least ten (10) days to review the report prior to the hearing.
- 5
- 6 ● The right to respond to the investigation report, including comments providing any additional relevant evidence  
7 after the opportunity to review the investigation report, and to have that response on the record.
- 8
- 9 ● The right to be informed of the names of all witnesses whose information will be used to make a finding, in advance  
10 of that finding, when relevant.
- 11
- 12 ● The right to regular updates on the status of the investigation and/or resolution.
- 13
- 14 ● The right to have reports of alleged Policy violations addressed by Investigators, Title IX Coordinators, and Decision-  
15 maker(s) who have received relevant training.
- 16
- 17 ● The right to preservation of privacy, to the extent possible and permitted by law.
- 18
- 19 ● The right to meetings, interviews, and/or hearings that are closed to the public.
- 20
- 21 ● The right to petition that any Title IX Team member in the process be recused on the basis of disqualifying bias  
22 and/or conflict of interest.
- 23
- 24 ● The right to have an Advisor of their choice to accompany and assist the party in all meetings and/or interviews  
25 associated with the resolution process.
- 26
- 27 ● The right to the use of the appropriate standard of evidence, preponderance of the evidence, to make a finding after  
28 an objective evaluation of all relevant evidence.
- 29
- 30 ● The right to be present, including presence via remote technology, during all testimony given and evidence  
31 presented during any formal resolution hearing.
- 32
- 33 ● The right to be promptly informed in a written Notice of Outcome letter of the finding(s) and disciplinary sanction(s)  
34 of the resolution process and a detailed rationale of the decision, delivered simultaneously (without undue delay) to  
35 the parties.
- 36
- 37 ● The right to be informed in writing of when a decision by Southeast Tech is considered final and any changes to the  
38 disciplinary sanction(s) that occur before the decision is finalized.
- 39
- 40 ● The right to be informed of the opportunity to appeal the finding(s) of the resolution process, and the procedures  
41 for doing so in accordance with the standards for appeal established by Southeast Tech.
- 42
- 43 ● The right to a fundamentally fair resolution as defined in these procedures.

1 **APPENDIX D: DISMISSAL (MANDATORY AND DISCRETIONARY)**

2  
3 Upon any dismissal, Southeast Tech will promptly send written notice of the dismissal and the rationale for doing  
4 so simultaneously to the parties.

5  
6 This dismissal decision is appealable by any party under the procedures for appeal in Appendix E.

7  
8 **1. Mandatory Dismissal**

9  
10 Southeast Tech must dismiss a Formal Complaint or any allegations therein if, at any time during the  
11 investigation or hearing, it is determined that:

- 12  
13 a) The conduct alleged in the Formal Complaint would not constitute sexual harassment as defined in  
14 Policy JICK, even if proved; and/or  
15 b) The conduct did not occur in an educational program or activity controlled by Southeast Tech  
16 (including buildings or property controlled by recognized student organizations), and/or Southeast  
17 Tech does not have control of the Respondent; and/or  
18 c) The conduct did not occur against a person in the United States; and/or  
19 d) At the time of filing a Formal Complaint, a Complainant is not participating in or attempting to  
20 participate in the education program or activity of Southeast Tech.

21  
22 **2. Discretionary Dismissal**

23  
24 Southeast Tech may dismiss a Formal Complaint or any allegations therein if, at any time during the  
25 investigation or hearing:

- 26  
27 a) A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to  
28 withdraw the Formal Complaint or any allegations therein; or  
29 b) The Respondent is no longer enrolled in or employed by Southeast Tech; or  
30 c) Specific circumstances prevent Southeast Tech from gathering evidence sufficient to reach a  
31 determination as to the Formal Complaint or allegations therein.

32 A Complainant who decides to withdraw a Formal Complaint may later request to reinstate it or refile it.

APPENDIX E: APPEALS

**1. Request for Appeal**

Southeast Tech will implement appeal procedures equally for both parties. Any party may file a Request for Appeal for:

- a) A determination regarding responsibility as a result of the Formal Resolution process (as stated in the Notice of Outcome); or
- b) Southeast Tech’s dismissal of a Formal Complaint or any allegations therein.

The Request for Appeal must be submitted in writing to the Title IX Coordinator within five (5) days of the Notice of Outcome or of notice of the dismissal. The Request for Appeal must include the reasons the party is appealing the determination regarding responsibility or the dismissal decision and evidence supporting the request.

Upon receiving a Request for Appeal, the Title IX Coordinator will –

- a) Designate an Appeal Decision-maker. Southeast Tech will ensure that the Appeal Decision-maker is not the same person as the Decision-maker that reached the determination regarding responsibility or dismissal, the Investigator, or the Title IX Coordinator.
- b) Notify the other party of the Appeal in writing and provide a copy of the Request for Appeal to that party within two (2) days of the Request for Appeal being filed.
- c) Forward the Request for Appeal within five (5) days of receiving the Request for Appeal to the Appeal Decision-maker for a Review for Standing to determine if the request meets the requirements to move forward as an Appeal.

**2. Review for Standing**

This Review for Standing is not a review of the merits of the appeal, but solely a determination as to whether the Request for Appeal meets the grounds for appeal and is timely filed so that the Appeal can move forward. The Appeal Decision-maker will complete the Review for Standing within three (3) days of receiving the Request for Appeal.

Appeals are limited to the following grounds:

- a) Procedural irregularity that affected the outcome of the matter;
- b) New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; or
- c) The Title IX Coordinator, Investigator, or Decision-maker had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter.

Request for Appeals will be denied if either of the following apply:

- a) The Request for Appeal is not submitted in writing to the Title IX Coordinator within five (5) days of the delivery of the Notice of Outcome or the notice of the dismissal.
- b) None of the grounds in the Request for Appeal meet the Grounds for Appeal as stated above as determined by the Appeals Decision-maker.

Request for Appeals will be approved if the following applies:

- 1           a) The Request for Appeal is submitted in writing to the Title IX Coordinator within five (5) days of the  
2           delivery of the Notice of Outcome or the notice of the dismissal, and  
3           b) Any of the grounds in the Request for Appeal meet the Grounds for Appeal as stated above as  
4           determined by the Appeals Decision-maker.

5  
6           Parties and their Advisors, if any, will be promptly notified in writing of the denial or the approval of the  
7           Request for Appeal and the rationale. Notification will be made simultaneously and may be delivered in  
8           person, emailed to the parties' Southeast Tech-issued email, or mailed to the local or permanent address(es)  
9           of the parties as indicated in official Southeast Tech records. Once mailed, emailed, and/or received in-  
10           person, notice will be presumptively delivered.

11  
12           Parties will be given a reasonable, equal opportunity to submit a written statement in support of, or  
13           challenging, the outcome of the Review for Standing. Parties will be given three (3) days to review and  
14           submit a response to the portion of the Review for Standing that was denied or approved and involves  
15           them. All responses to the Review for Standing will be forwarded by the Appeal Decision-maker to all  
16           parties.

17  
18           Upon reviewing the Review for Standing and all written statements submitted by the parties in the 3-day  
19           review period, the Appeal Decision-maker will either Dismiss the Request for Appeal or move the Request  
20           for Appeal forward as an Appeal. Decisions by the Appeal Decision-maker to Dismiss the Request for Appeal  
21           are final.

### 22 23 **3. Appeal**

24  
25           An Appeal is a review of the merits of the appeal – the reasons and evidence provided in the Request for  
26           Appeal.

27  
28           The Appeal Decision-maker will collect any additional information needed and all documentation regarding the  
29           Request for Appeal, the Review for Standing, and the subsequent written statements/responses by the parties.  
30           The Appeal Decision-maker will render a decision (Appeal Outcome) in no more than five (5) days, barring  
31           exigent circumstances. All decisions apply the preponderance of the evidence standard.

32           Notification of the Appeal Outcome will be sent to all parties in writing including the decision on each ground  
33           and rationale for each decision. Notification will be made simultaneously and may be delivered in person,  
34           emailed to the parties' Southeast Tech-issued email, or mailed to the local or permanent address(es) of the  
35           parties as indicated in official Southeast Tech records. Once mailed, emailed, and/or received in-person, notice  
36           will be presumptively delivered.

37  
38           The Appeal Outcome is final.

### 39 40 41 42 **4. Disciplinary sanctions Status During the Appeal**

43           Any disciplinary sanctions imposed as a result of the hearing are stayed during the appeal process. Supportive  
44           measures may be continued or implemented.

45           If any of the disciplinary sanctions are to be implemented immediately post-hearing, but pre-appeal, then  
46           Emergency Removal procedures must be followed.

47           Southeast Tech may still place holds on official transcripts, diplomas, graduations, and course registration  
48           pending the outcome of an Appeal when the original disciplinary sanctions included separation.

1 **5. Appeal Considerations**

- 2 ● Decisions on appeal are to be deferential to the original decision, making changes to the finding only when
- 3 there is clear error and making changes to the disciplinary sanction(s)/responsive action(s) only if there is a
- 4 compelling justification to do so.
- 5 ● Appeals are not intended to provide for a full re-hearing (de novo) of the allegation(s). In most cases,
- 6 appeals are confined to a review of the written documentation or record of the original hearing and
- 7 pertinent documentation regarding the specific grounds for appeal.
- 8 ● An appeal is not an opportunity for Appeal Decision-makers to substitute their judgment for that of the
- 9 original Decision-maker(s) merely because they disagree with the finding and/or disciplinary sanction(s).
- 10 ● The Appeal Decision-maker may consult with the Title IX Coordinator on questions of procedure or
- 11 rationale, for clarification, if needed. Documentation of all such consultation will be maintained.
- 12 ● Appeals granted based on new evidence should normally be remanded to the original Investigator and/or
- 13 Decision-maker for reconsideration. Other appeals may be remanded at the discretion of the Title IX
- 14 Coordinator or, in limited circumstances, decided on appeal.
- 15 ● Once an appeal is decided, the outcome is final: further appeals are not permitted, even if a decision or
- 16 disciplinary sanction is changed on remand (except in the case of a new hearing).
- 17 ● In rare cases where a procedural or substantive error cannot be cured by the original Decision-maker (as in
- 18 cases of bias), the appeal may order a new hearing with a new Decision-maker.
- 19 ● The results of a new hearing can be appealed, once, on any of the three available appeal grounds.
- 20 ● In cases in which the appeal results in reinstatement to Southeast Tech or resumption of privileges, all
- 21 reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some
- 22 opportunities lost may be irreparable in the short term.
- 23

## APPENDIX F: INFORMAL RESOLUTION

### 1. When Can an Informal Resolution Process Be Used?

Informal Resolution will only be offered if a Formal Complaint is filed, if it is done prior to reaching a determination regarding responsibility through the Formal Resolution process, and if the Title IX Coordinator approves. Informal Resolution is not a required component of the Grievance Process, and at no time will parties be pressured or required to pursue an Informal Resolution first in order to pursue a Formal Resolution.

Informal resolution may be appropriate when parties agree to the Informal Resolution process, and the process is approved by the Title IX Coordinator after evaluating the circumstances. At no time can an Informal Resolution process be used as the grievance (resolution) process for allegations that an employee sexually harassed a student; the Formal Resolution process must apply.

### 2. Starting the Informal Resolution Process

To request Informal Resolution, the Complainant or Respondent who wishes to initiate the Informal Resolution should contact the Title IX Coordinator. Within two (2) days of receiving the request, the Title IX Coordinator will review to see if an Informal Resolution process is viable under the circumstances, and if yes, the Title IX Coordinator will contact the other party to see if they, too, would like to pursue an Informal Resolution. The Title IX Coordinator may also reach out to the parties to see if an Informal Resolution process is agreed upon with the Respondent indicates an intent to accept responsibility for all of the alleged misconduct, and the Title IX Coordinator determines that an Informal Resolution is appropriate.

Within two (2) days of determining that the parties are interested in the Informal Resolution process, the Title IX Coordinator will send the Informal Resolution Request paperwork to the parties to obtain each party's signed voluntary, written confirmation that they wish to resolve the matter through the Informal Resolution process. The Informal Resolution Request will include written notice of the reported misconduct and any disciplinary sanctions or measures that may result from participating in such a process, including information regarding any records that will be maintained or shared by Southeast Tech.

The Informal Resolution Request will also inform the parties that any party participating in Informal Resolution can stop the process at any time and begin or resume the Formal Resolution process. The parties will have five (5) days to return the signed Informal Resolution Request. Upon return of the signed Informal Resolution Request by all parties, the Informal Resolution process begins.

### 3. The Informal Resolution Process

The Informal Resolution process will commence with an Informal Resolution Facilitator within five (5) days of receipt of all parties' signed Informal Resolution Requests. The Informal Resolution process can include two different approaches:

#### a) Negotiated Resolution

Negotiated Resolution is when the Title IX Coordinator, with the consent of the parties, negotiates and implements a mutually agreed upon resolution to resolve the allegations that satisfies all parties and Southeast Tech.

The Title IX Coordinator may look to the following factors to assess whether Negotiated Resolution is appropriate:

- The parties' amenability to the Negotiated Resolution option;
- Likelihood of potential resolution, taking into account any power dynamics between the parties;
- The parties' motivation to participate;
- Civility of the parties;
- Results of a violence risk assessment/ongoing risk analysis;
- Disciplinary history;
- Whether an emergency removal is needed;
- Formal Complaint complexity;
- Emotional investment/capability of the parties;
- Rationality of the parties;
- Goals of the parties;

#### **b) Respondent Accepts Responsibility for Alleged Violations**

This method may be used if the Respondent indicates an intent to accept responsibility for all of the alleged misconduct in the Formal Complaint, the Respondent agrees to the disciplinary sanctions, if any, and the Complainant agrees to the outcome.

The ultimate determination of which approach to use is to be made by the Title IX Coordinator.

#### **4. Informal Resolution Outcome**

The ultimate determination of whether the Informal Resolution is successful (the Formal Complaint is resolved) is to be made by the Title IX Coordinator. The Title IX Coordinator will determine whether all parties and Southeast Tech are able to agree on the outcome of the Informal Resolution process.

If yes, within five (5) days, the outcome will be provided in writing to the parties through an Informal Resolution Agreement. The Informal Resolution Agreement will include all that apply – acknowledgment of responsibility by the Respondent for allegations, any disciplinary sanctions imposed on the Respondent, and whether remedies designed to restore or preserve equal access to Southeast Tech's education program or activity will be provided by Southeast Tech to the Complainant (the details or specifics of the remedies are not shared with the Respondent unless the remedy directly relates to the Respondent).

The parties must sign the Informal Resolution Agreement showing their intent to be bound by the terms of the Agreement. The signed Informal Resolution Agreement must be returned to the Title IX Coordinator by all parties within three (3) days of delivery, or the Informal Resolution process will cease, and the Formal Resolution will resume at the same point where it was paused. The Informal Resolution Outcome becomes final upon the return of the signed Informal Resolution Agreement, if done within the required timeframe by all parties.

#### **5. Disciplinary Sanctions and Remedies**

When an Informal Resolution is final, the appropriate disciplinary sanction(s) and/or remedies are promptly implemented in order to effectively stop the sexual harassment, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

Failure to abide by the Informal Resolution Agreement may result in additional disciplinary actions.

#### **6. Appeals Not Allowed**



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2 The final result of an Informal Resolution process is not subject to appeal once all parties indicate their written  
3 assent to all agreed upon terms of the Informal Resolution in the Informal Resolution Agreement. When the  
4 parties cannot agree on all terms of the Informal Resolution, the Formal Resolution process will resume at the  
5 same point where it was paused.  
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7 **7. Recordkeeping**  
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9 Records of the Informal Resolution will be maintained per the Preservation of Records/ Recordkeeping section  
10 of this procedure, as applicable.  
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25 ATIXA 2020 INTERIM MODEL SEXUAL HARASSMENT POLICIES AND PROCEDURES  
26 USE AND ADAPTATION OF THIS MODEL WITH CITATION TO ATIXA IS PERMITTED  
27 THROUGH A LIMITED LICENSE  
28 TO Southeast Tech.  
29 ALL OTHER RIGHTS RESERVED.

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45 Regulation Board Action  
46 Approved: 09.05.18 ST00331