Students

Harassment

A. Definitions

1. Harassment: Harassment consists of physical or verbal conduct related to a person’s race, color, religion, creed, ancestry, national origin, gender (including pregnancy), sexual orientation, age, disability, parental status or marital status or any other basis protected by law, when the conduct is so severe or pervasive, and objectively offensive that it:

   a. has the purpose of effecting or creating an intimidating, hostile, or offensive academic environment, or
   
   b. has the purpose or effect of substantially or unreasonably interfering with a student’s academic performance which deprives the student access to educational opportunities.

2. Sexual Harassment: Sexual harassment is any unwelcome sexual advance(s), request(s) for sexual favors, and/or other verbal, physical and/or visual contact(s) of a sexual nature, or communication of a sexual nature when:

   a. submission to such conduct or communication is made, either explicitly or implicitly, a term of a student’s academic status or progress;
   
   b. submission or rejection of such conduct or communication by a student is used as the basis of educational decisions affecting the student; or
   
   c. submission to or rejection of the conduct or communication by the student is used as the basis for any decision affecting the student regarding benefits and services, honors, programs, or activities available at or through the school; or
   
   d. such conduct is so severe or pervasive, and objectively offensive that such conduct or communication has the purpose or effect of depriving the student access to educational opportunities or benefits provided by the school.

Sexual harassment may include, but is not limited to, the following conduct when such conduct is so severe or pervasive, and objectively offensive:

   a. unwelcome verbal harassment or abuse based upon gender;
b. unwelcome pressure for sexual activity;

c. unwelcome, gender motivated, or inappropriate patting, pinching, or physical contact, other than necessary restraint of students by instructors, administrators, or other STI personnel to avoid physical harm to persons or property;

d. unwelcome behavior or words, based upon gender, including demands for sexual favors, accompanied by implied or overt threats concerning a student’s educational status; or

e. unwelcome behavior or words, based upon gender, including demands for sexual favors, accompanied by implied or overt promises of preferential treatment with regard to a student’s educational status.

B. Reporting Incidents of Harassment – Grievance Procedures

Any student or parent of any minor student who believes the student has been the victim of harassment as defined above by a student or by STI personnel shall report the alleged acts immediately to an STI administrator, STI’s Human Resource Specialist, or STI’s Vice President of Student Affairs on the Complaint Investigation form available from STI’s Human Resources Department or on STINet.

1. Designated Personnel. STI hereby designates STI’s Vice President of Student Affairs as the Institute’s Civil Rights Officer to address reports or complaints of harassment from a student. Any STI administrator is designated by STI to receive reports of harassment. Upon receipt of a report of harassment, the administrator shall ask the individual to complete the Complaint Investigation form and immediately notify the Civil Rights Officer and forward the written report to the STI Civil Rights Officer. Failure to forward any harassment report or complaint as provided herein will result in disciplinary action. If the complaint involves the Civil Rights Officer, the complaint shall be filed directly with the President. STI shall post in the STI Student Catalog/Handbook and the website the name of the Civil Rights Officer including a mailing address and telephone number.

2. Submission of a complaint or report of harassment. Submission of a complaint or report of harassment will not affect the student’s status with STI (e.g., employment, grades, work assignments, extra-curricular activities).

3. Confidentiality. STI will make attempts to respect the confidentiality of the complainant and the individual(s) against whom the complaint is filed as much as possible consistent with STI’s legal obligations and the necessity to investigate allegations of harassment and take appropriate disciplinary action when the conduct has occurred.

4. Procedure. The Complainant will be asked to put the facts surrounding the conduct in writing on the Complaint Investigation form provided by STI that includes: Complainant’s name and address; date of the incident; type of
harassment; description of the incident(s); name of any witnesses; what action, if any, has been taken; and signature of the complainant.

5. **Required Reporting.** If the accusations include possible criminal activity such as molestation, sexual battery, or similar contact, the Civil Rights Officer shall comply with all mandatory state reporting requirements including, but not limited to, contact with the Department of Social Services or law enforcement.

Nothing in this procedure forecloses individuals from seeking redress for their concerns through other legal avenues, such as the Office of Civil Rights, the Equal Employment Opportunity Commission or the South Dakota Division of Civil Rights.

C. **Investigation**

Upon receipt of a written report alleging harassment, the Civil Rights Officer shall immediately authorize an investigation. This investigation may be conducted by the Civil Rights Officer, other STI officials or by a third party designated by STI. The investigating party shall provide a written report of the status of the investigation within ten (10) working days to the Civil Rights Officer.

In determining whether alleged conduct constitutes harassment, STI should consider the surrounding circumstances, the nature of the advances, if any, relationships between the parties involved, and the context in which the alleged incident(s) occurred.

The investigation may consist of personal interviews with the complainant, the individual(s) against whom the complaint is filed, and others who may have knowledge of the alleged incident(s) or circumstances giving rise to the complaint. The investigation may also consist of any other methods and documents deemed pertinent by the investigating party.

In addition, STI may take immediate steps, at its discretion, to protect the complainant, students, and employees pending completion of an investigation of alleged harassment.

During the investigation all parties directly involved in the complaint may have representation. If any party elects to be represented at any step of the complaint procedure, the name of the representative must be provided in writing to the Civil Rights Officer within two (2) days of the filing of the Complaint Investigation form, notification of an investigation, or the filing of any appeal.

D. **STI Action**

1. Upon receipt of a recommendation that allegations of a complaint constitute a violation of STI’s policy, STI will take such action as appropriate based upon the results of the investigation.

2. The results of the investigation of each complaint will be reported in writing and kept on file in the STI Human Resources Department. The report shall include
findings of fact and will document the disciplinary action taken, if any, as a result of the complaint.

3. The complainant will be advised of the decision in writing on a form supplied by STI within ten (10) working days from the conclusion of the investigation.

4. If either party is not satisfied with the written decision, he/she may appeal the decision in writing to the President within ten (10) working days following receipt of the decision. The appeal must include the original complaint form, a copy of the written decision, and a written statement as to the reason for appeal.

5. The President will review the material submitted, investigate the circumstances, and respond in writing within fourteen (14) working days of the appeal with a determination to uphold, modify, or reverse the decision. At the President’s discretion, an additional investigation may be conducted, including interviews with the complainant, the individual(s) against whom the complaint is filed, and others who may have knowledge of the alleged incident(s) or circumstances giving rise to the complaint. The appeal may also include any other methods or documents deemed pertinent by the President.

6. If either party is not satisfied with the decision rendered by the President, he or she may request a hearing in executive session with the School Board. The request for hearing must be submitted in writing through the President’s office within ten (10) working days following receipt of the President’s decision. The appeal must include the original Complaint Investigation form, a copy of the written decision from the President, and a written statement as to the reasons for appeal. The hearing will be scheduled within thirty (30) working days of the request for hearing. The parties involved will be notified in writing of the time and date of the scheduled hearing.

7. The School Board will render a decision in writing within ten (10) working days of the hearing.

E. Prohibition against Retaliation

STI strictly prohibits and will discipline any individual who retaliates against any person who reports alleged harassment or who retaliates against any person who testifies, assists, or participates in any investigation, proceeding, or hearing related to a harassment complaint.

Retaliation includes, but is not limited to, any form of intimidation, reprisal, or harassment. Retaliation is itself a violation of federal and state laws and STI policy prohibiting discrimination and may lead to separate disciplinary action against an individual.

If any student who has filed a complaint or has testified, assisted or participated in the investigation of harassment believes that he or she has been retaliated against because
of his or her participation, he or she should file a complaint following the same procedures set forth above.

**F. False Charges**

Charges found to have been intentionally dishonest or made maliciously without regard for truth may subject complainants to disciplinary action. False accusations can have a serious detrimental effect on innocent parties.

**G. Uncomfortable Situations**

STI recognizes that not every uncomfortable situation constitutes harassment. Whether a particular action or incident is a personal, social relationship without a discriminatory educational effect requires a determination based on all the facts and surrounding circumstances.

**H. Discipline**

Any action taken by STI pursuant to this policy will be consistent with requirements of applicable STI policies and STI's progressive discipline plan. STI will take disciplinary action it deems necessary and appropriate to attempt to end the harassment and prevent its recurrence.

Legal References:
- Title IX of the Education Amendments of 1972
- South Dakota Executive Order 81-08
- Title II of the Americans with Disabilities Act of 1990
- Section 504 of the Rehabilitation Act of 19

Related Policies/Regulations:
- AC/STI – AC-R/STI Equal Opportunity/Nondiscrimination
- GBAA/STI – GBAA-R/STI Harassment (Personnel)

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