

SOUTHEAST TECH

Policies and Regulations

NEPN Code: AC-R/STI

Foundations and Basic Commitments

Equal Opportunity/Nondiscrimination

Resolution of Discrimination Complaints

A complaint may be filed by a student, parent/guardian, employee or other citizen when it is felt that a violation of Policy AC/STI Equal Opportunity/Nondiscrimination has occurred. Confidentiality, to the extent possible, will be maintained at each level of the complaint procedure.

The complainant is encouraged to attempt to resolve the issue informally by working with the administrator most directly involved in the situation before filing a formal complaint. However, it is understood that for some issues this may not be appropriate.

A. Reporting Incidents of Discrimination – Procedures

Any person who believes he or she has been the victim of discrimination by a student or an employee of Southeast Tech will report the alleged acts immediately to a Southeast Tech Administrator, or the Civil Rights Officer/Title IX Coordinator (Vice President of Student Affairs and Institutional Research) on the Complaint Investigation Form available from a Southeast Tech Administrator or from Southeast Tech Human Resources.

1. **Designated Personnel.** Southeast Tech Administration is designated by Southeast Tech to receive written reports of discrimination. All other written reports shall be directed to the applicable department. Upon receipt of a report, the administrator shall immediately notify and forward the written report form to the Civil Rights Officer/Title IX Coordinator. Failure to forward any discrimination report or complaint as provided herein will result in disciplinary action. If the complaint involves the administrator, the complaint shall be filed directly with the Civil Rights Officer/Title IX Coordinator.
2. **Institute wide.** The School Board hereby designates the Vice President of Student Affairs and Institutional Research as the Civil Rights Officer/Title IX Coordinator to receive reports or complaints of discrimination from any individual, employee or victim of discrimination and also from the Southeast Tech Administrator as outlined above. If the complaint involves the Civil Rights Officer/Title IX Coordinator, the complaint shall be filed directly with the Southeast Tech President. Southeast Tech shall post on the Southeast Tech website the mailing address and telephone number of the Civil Rights Officer/Title IX Coordinator.

3. **Submission of a complaint or report of discrimination.** Submission of a complaint or report of discrimination will not affect the individual's employment, student status or work assignments.
4. **Confidentiality.** Southeast Tech 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 Southeast Tech's legal obligations and the necessity to investigate allegations of discrimination and take disciplinary action when the conduct has occurred.
5. **Procedure.** The complainant will be asked to put the facts surrounding the conduct in writing on the Complaint Investigation Form provided by Southeast Tech that includes the following: Complainant's name and address; date of the incident; type of discrimination; description of the incident; name of any witnesses; what action, if any, has been taken; and signature of the complainant.
6. **Required Reporting.** If the accusations include possible criminal activity such as molestation, sexual battery, or similar contact, the Civil Rights Officer/Title IX Coordinator shall comply with mandatory reporting requirements including, but not limited to, contact with the State Department of Social Services.

Nothing in this grievance 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 Human Rights.

B. Investigation

Upon receipt of a written report alleging discrimination, the Civil Rights Officer/Title IX Coordinator shall immediately authorize an investigation. This investigation may be conducted by Southeast Tech officials or by a third party designated by Southeast Tech. The investigating party shall provide a written report of the status of the investigation within ten (10) working days to the Southeast Tech President and Civil Rights Officer/Title IX Coordinator.

In determining whether alleged conduct constitutes discrimination, Southeast Tech should consider the surrounding circumstances, the nature of the advances, if any, relationships between the parties involved, and the context in which the alleged incidents 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, Southeast Tech may take immediate steps at its discretion to protect the complainant, students, and the employees pending completion of an investigation of alleged discrimination.

During the investigation all parties directly involved in the complaint may have legal or other representation. If any party elects to be represented at any step of the complaint procedure, the name of the representative must be declared in writing to the Civil Rights Officer/Title IX Coordinator within two (2) days of the filing of the complaint, notification of any investigation, or the filing of any appeal.

C. Southeast Tech Action

1. Upon receipt of a recommendation that the allegations of a complaint constitute a violation of Southeast Tech policy, Southeast Tech 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 Southeast Tech Human Resources Department. The report shall include findings of fact and will document the action taken, if any, as a result of the complaint. A finding will be determined on the basis of whether it is more likely than not that the conduct as alleged occurred.
3. The complainant will be advised of Southeast Tech's decision in writing on a form supplied by Southeast Tech within ten (10) working days from the conclusion of the investigation.
4. If either party is not satisfied with the written decision rendered by Southeast Tech, he or she may appeal the decision in writing to the Southeast Tech President within ten (10) working days following the receipt of the decision. The appeal must include the original Complaint Investigation form, a copy of the written decision, and a written statement as to the reason for appeal.
5. The Southeast Tech 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 Southeast Tech 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 include any other methods or documents deemed pertinent by the Southeast Tech 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 response. 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 following the hearing.

D. Prohibition against Retaliation

Southeast Tech will discipline any individual who retaliates against any person who reports alleged discrimination or who retaliates against any person who testifies, assists, or participates in any investigation, proceeding, or hearing related to a discrimination complaint.

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

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

E. False Charges

Charges found to have been intentionally dishonest or made maliciously without regard for truth may subject complainants and those conspiring with complainants to disciplinary action.

F. Uncomfortable Situations

Southeast Tech recognizes that not every uncomfortable situation constitutes discrimination. Whether a particular action or incident is a personal, social relationship without a discriminatory employment effect requires a determination based on all the facts and surrounding circumstances. False accusations can have a serious detrimental effect on innocent parties.

G. Discipline

Any action taken by Southeast Tech pursuant to this policy will be consistent with requirements of applicable collective bargaining agreements and Southeast Tech policies. Southeast Tech will take such disciplinary action it deems necessary and appropriate, including but not limited to, warning, suspension, or immediate discharge to end discrimination and prevent its recurrence.

Legal References

Title VI of the Civil Rights Act of 1964 (discrimination based on origin or race)
Title IX of the Education Amendments of 1972 (discrimination based on gender)
Title VII of the Civil Rights Act of 1964 (discrimination based on race, color, creed, religion, gender (including pregnancy), national origin or ancestry).
Age Discrimination Act of 1975 (discrimination based on age)
Genetic Information Non-discrimination Act (discrimination based on genetic information)
Americans with Disabilities Act (discrimination based on disability)

Section 504 of the Rehabilitation Act (discrimination based on disability)
Uniform Services Employment and Re-employment Rights Act (discrimination based on military/veteran status)

Related Policies/Regulations:

GBAA/STI / GBAA-R/STI – Harassment (Personnel)
JIAA/STI – JIAA-R/STI – Harassment (Students)

Regulation	Board Action	(formerly 1350, 4000, 5000)
approved: 08-09-76	16808	
revised: 12-12-77	17395	
revised: 12-27-89	25139L	
revised: 06-26-95	28182	
revised: 07-14-97	28842	
revised: 07-08-02	33293	
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