



**SOUTHEAST**  
Technical College

**2022**

# **Annual Security and Fire Safety Report**

## **Reporting Period**

January 1, 2021 to December 31, 2021

Published September 23, 2022

# 2022 Annual Security Report

## Table of Contents

<a href="#">Introduction</a> .....	3
<a href="#">Section 1</a> - .....	4
<a href="#">Accurate and Prompt Reporting of Crimes</a> .....	4
<a href="#">Annual Disclosure of Crime Statistics</a> .....	5
<a href="#">Disclosure of Disciplinary Proceeding Results</a> .....	5
<a href="#">Pastoral and Professional Counselors</a> .....	6
<a href="#">Law Enforcement Authority and Jurisdiction of Security Personnel</a> .....	6
<a href="#">Monitoring of Student Organizations Non-Campus Locations</a> .....	7
<a href="#">Crime Logs</a> .....	7
<a href="#">Crime Prevention and Security Awareness Programs</a> .....	7
<a href="#">Programs to Inform Employees and Students about Campus Security Procedures and Practices</a> .....	8
<a href="#">Reporting Clery Act Crimes and Voluntary, Confidential Crime Reporting</a> .....	8
<a href="#">Security and Access to Campus Facilities</a> .....	9
<a href="#">Campus Neighborhood</a> .....	10
<a href="#">Security Considerations in the Maintenance of Campus Facilities</a> .....	10
<a href="#">Sex Offender Registration</a> .....	11
<a href="#">Timely Warnings</a> .....	12
<a href="#">Emergency Response and Evacuation and Timely Warning Notification Policy</a> .....	13
<a href="#">Emergency Response and Evacuation Procedures</a> .....	13
<a href="#">Missing Student Notifications</a> .....	14
<a href="#">Working Relationship of Campus Security and Law Enforcement Agencies</a> .....	14
<a href="#">Section 2</a> –.....	14
<a href="#">Sexual Assault, Domestic Violence, Dating Violence, and Stalking Prevention and Response</a> .....	14
<a href="#">Definitions</a> .....	16
<a href="#">Resources and Emergency External Reporting Options</a> .....	16
<a href="#">Section 3</a> –.....	17
<a href="#">Drug and Alcohol Abuse Education Programs</a> .....	17
<a href="#">Policy Distribution</a> .....	18
<a href="#">Drug Testing for Commercial Drivers/Students</a> .....	19
<a href="#">Use of Tobacco Products</a> .....	19
<a href="#">Known Health Risks</a> .....	19

## 2022 Annual Security Report

<a href="#">Annual Fire Safety Report</a> .....	19
<a href="#">Fire Definitions</a> .....	20
<a href="#">2019-2021 Crime Statistics Summary</a> .....	21
<a href="#">APPENDIX 1: POLICY NEPN CODE: JICK/STC – SEX/GENDER HARASSMENT, DISCRIMINATION AND MISCONDUCT - TITLE IX</a> .....	27
<a href="#">APPENDIX 2: PROCEDURES NEPN CODE: JICK-R/STC – SEX/GENDER HARASSMENT, DISCRIMINATION AND MISCONDUCT – TITLE IX - GRIEVANCE PROCESS</a> .....	55

## 2022 Annual Security Report

### Introduction

Southeast Technical College believes campus security and safety are vital in maintaining a positive learning environment for students and work environment for employees. It is important to keep students, parents, and employees informed about campus safety and security.

Southeast Technical College, through the office of Institutional Effectiveness, annually prepares and submits crime statistics to the US Department of Education in accordance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the “Clery Act”) by the timelines published in the Federal Register *34 C.F.R. §668.41(5)*. The crime statistics are submitted through the Department’s annual Campus Safety and Security Survey for inclusion in the Office of Postsecondary Education’s Campus Safety and Security Data Analysis Cutting Tool. Campus Crime statistics are also available at <http://ope.ed.gov/security>.

Southeast Technical College, through the office of Institutional Effectiveness, prepares an Annual Security Report (ASR) with all the required elements stated in the Clery Act and in *34 C.F.R. §668.41(b)* and publishes the report prior to October 1 of each year and is available to the public at <https://southeasttech.edu/consumerinformation/>. Prior to October 1 of each year, an email notification is sent to all students and employees. The notification includes notice of the report’s availability, a link to its exact electronic location, a description of its contents, and a notice that a paper copy will be provided upon request. Prospective students are notified of the information during the application process. Prospective employees are notified via job postings.

Key Resources provided to the campus community include:

- Safety and Security Resource Guide  
<https://www.southeasttech.edu/footer/campus-safety-security.php>
- Emergency Response Guide –  
<https://www.southeasttech.edu/resources/docs/footer/consumer-information/emergency-response-guide.pdf>
- Access to the Catalog/Student Handbook, which includes information on Drug-Free Workplace, Title IX – Sexual Harassment, Tobacco and Smoke-Free Campus, Student Complaints, Student Conduct, etc.  
<https://catalog.southeasttech.edu/content.php?catoid=28&navoid=19942>
- Drug-Free Environment Policy:  
<https://catalog.southeasttech.edu/content.php?catoid=28&navoid=19942#Drug-Free Environment>
- Sexual Harassment Policy – Title IX  
<https://catalog.southeasttech.edu/content.php?catoid=28&navoid=19942#Harassment>  
<https://catalog.southeasttech.edu/content.php?catoid=28&navoid=20027#title-ix-sexual-misconduct-sexual-assault-sexual-offense>
- Tobacco and Smoke-Free Campus Policy  
<https://catalog.southeasttech.edu/content.php?catoid=28&navoid=19942#Use of Tobacco Products>

## 2022 Annual Security Report

- Student Complaints/Conduct  
[https://catalog.southeasttech.edu/content.php?catoid=28&navoid=19942#Student\\_Public\\_Complaint\\_Process](https://catalog.southeasttech.edu/content.php?catoid=28&navoid=19942#Student_Public_Complaint_Process)
- Student Discipline  
[https://catalog.southeasttech.edu/content.php?catoid=28&navoid=19942#Student\\_Discipline](https://catalog.southeasttech.edu/content.php?catoid=28&navoid=19942#Student_Discipline)
- Crime Statistics, Annual Security Report, and Missing Person Procedures  
<https://www.southeasttech.edu/footer/campus-safety-security.php>
- 34 CFR 668.46(c)(1) and 34 CFR 668.46(b)  
<https://www.govinfo.gov/content/pkg/CFR-2016-title34-vol3/pdf/CFR-2016-title34-vol3-sec668-46.pdf>

### Section 1 –

#### Accurate and Prompt Reporting of Crimes

All members of the Southeast Tech community are encouraged to report all crimes and any public related incidents in a timely manner. Students, employees, and others within the Southeast Tech community should contact local law enforcement and notify Campus Security when they believe a crime or incident has occurred. This will help determine, if required, inclusion in the annual crime statistics and to aid in providing timely warnings to the campus community, when appropriate. If the concern is associated with Southeast Tech Housing, then the person should notify the housing staff and/or the housing security officer. Below are appropriate authorities to report crimes and other incidents to:

<b>Title</b>	<b>Office Location</b>	<b>Phone</b>
<b>Sioux Falls Police Department</b>	320 W 4 <sup>th</sup> St; Sioux Falls, SD 57104	911 605-367-7000
<b>Southeast Tech Security</b>	Mickelson Center 200B	605-367-7847
<b>Southeast Tech Housing Staff</b>	1 <sup>st</sup> Floor Nicolay Hall	605-367-5769 605-940-2781
<b>Southeast Tech Title IX Coordinator</b>	Brett Arenz Sioux Falls School District In-House Counsel 201 E 38 <sup>th</sup> Street Sioux Falls, SD 57105 <a href="mailto:brett.arenz@k12.sd.us">brett.arenz@k12.sd.us</a>	605-367-4670
<b>Southeast Tech President</b>	HUB 230G	605-367-8355

## Annual Disclosure of Crime Statistics

In compliance with the Clery Act, Southeast Tech submits its crime statistics to the Campus Security and Safety website at <http://ope.ed.gov/security>. A crime report and a crime log are also available upon request through the Southeast Tech Campus Security Office. Southeast Tech Security also work directly with local law enforcement in regards to any crimes occurring on public property adjacent to, and easily accessible from, campus property.

Pursuant to the Clery Act, the College through the office of Institutional Effectiveness also compiles and publishes crime statistics in an Annual Security Report which is located at <https://southeasttech.edu/resources/docs/footer/consumer-information/annual-security-report.pdf>. As part of this obligation, members of the College's community who are considered to be Campus Security Authorities are required to report crimes for the inclusion as statistics in the College's Annual Security Report. Southeast Technical College also solicits crime statistics from the Sioux Falls Police Department and the Minnehaha County Sheriff's office. Individuals unable to obtain a hard copy of the Annual Security Report from the College's website may request one from Southeast Tech Security at:

Campus Security  
Southeast Technical College  
2320 N Career Ave.  
Sioux Falls, SD 57107

## Disclosure of Disciplinary Proceeding Results

Discipline, other than suspension or termination, may be imposed by an STC administrator or designee after investigating the alleged conduct or violation. The administrator or designee shall inform the student either orally or in writing as soon as possible after discovery of the alleged misconduct. The student shall be informed of the rule, regulation, policy or law that has allegedly been violated. The student will be given an opportunity to answer the charges and present evidence in his/her behalf. The Administrator or designee shall inform the student of the discipline to be imposed. The student may appeal the decision of the administrator or designee to the Vice President for Enrollment Management or the Vice President of Academics by submitting a written request within ten (10) calendar days after receiving the decision of the administrator or designee. The student shall be given an opportunity to answer the charges and present evidence either orally or in writing to the Vice President for Enrollment Management or the Vice President of Academics within ten (10) calendar days of submitting the written appeal. The Vice President for Enrollment Management or Vice President of Academics shall render a written decision within ten (10) calendar days of meeting with the student or from receiving the student's written statement. The decision of the Vice President for Enrollment Management or the Vice President of Academics is final.

Suspension or Termination - Pursuant to Policy JK/STI, the President designates the authority to suspend or terminate students to the Vice President for Enrollment Management and the Vice President of Academics. If the administrator recommends suspension or termination of the

## 2022 Annual Security Report

student, the administrator must prepare a written report of the alleged misconduct and the conclusions of any investigation within ten (10) calendar days of the conclusion of the investigation and provide a copy of the recommendation to the student. The Vice President for Enrollment Management or the Vice President of Academics, after reviewing the administrator's recommendation may exclude a student from STC classes, organizations or activities pending further investigation into the student's conduct. If suspension or termination is anticipated, the Vice President for Enrollment Management or the Vice President of Academics shall inform the student in writing within five (5) calendar days after receiving the Program Administrator's report. Prior to suspension or termination, the student shall be informed of the rule, regulation, policy or law that has been allegedly violated and given an opportunity to answer the charges and present evidence. The Vice President for Enrollment Management or Vice President of Academics shall render a decision within five (5) calendar days after reviewing the student's submission and completing any investigation.

The President shall be informed of the decision by the Vice President for Enrollment Management or Vice President of Academics. The student may appeal the decision of the Vice President for Enrollment Management or the Vice President of Academics to the President by submitting a written request within ten (10) calendar days of receiving the decision. The President shall review the decision and conduct any further investigation deemed necessary. The student shall be given an opportunity to answer the charges and present evidence either orally or in writing within ten (10) calendar days of receiving the student's written appeal. The President shall render a written decision within ten (10) calendar days of the meeting with the student or receiving the student's written statement. The decision of the President is final.

### **Pastoral and Professional Counselors**

Southeast Tech does not employ pastoral counselors; however, Southeast Tech does employ a professional counselor on campus for students to access. STC supports the decision of our professional counselor not to disclose or report certain incidents. Should our counselor determine that police involvement and reporting is necessary, STC Campus Security will work with the counselor to contact the local law enforcement agency and respond appropriately.

Southeast Tech encourages our professional counselor, if she deems appropriate, to inform the persons she is counseling of STC's procedures for reporting crimes. Additionally, STC is not required to provide a timely warning with respect to pastoral or professional counselors that go unreported to STC officials.

### **Law Enforcement and Jurisdiction of Security Personnel**

Southeast Technical College maintains security officers and a security office in the Mickelson Building, which can be reached at the phone numbers previously listed. During the evening hours, a security officer is located in the housing complex. The Security Office is staffed by contracted police officers from the Minnehaha County Sheriff's Department. All students and employees are encouraged to program the Security Office numbers listed above into their cell phones in case of an emergency. Southeast Technical College is in Minnehaha County and

## 2022 Annual Security Report

therefore falls under the Sioux Falls Police Department's jurisdiction. Both campus security officers are licensed South Dakota Peace Officers with full arrest powers.

### **Monitoring of Student Organizations Non-Campus Locations**

Southeast Technical College does not have any officially recognized student organizations with non-campus locations.

### **Crime Logs**

During the 2021-22 school year there was a new Campus Security Officer employed at STC. When the creation of the ASR report was done it was discovered that the new Campus Security Officer had destroyed all past Campus Crime Logs and there was none started for the 2020-21 school year.

After discussion, there was a creation of a new crime log form starting with the 2022-23 school year. This form will be used now and in the future and will be kept electronically. It will be maintained by the Campus Security Office and be available within 2 business days upon written request.

### **Crime Prevention and Security Awareness Programs**

Southeast Technical College encourages all students and employees to accept personal responsibility for their own safety as well as the safety of others. They are to report all crimes which occur on the Southeast Tech campus to the Sioux Falls Police Department and/or Southeast Tech Campus Security. Southeast Tech's Security Officers are contracted through the Minnehaha Sheriff's Department.

Southeast Tech's Catalog contains student information and guidelines related to drugs and alcohol (Drug Free Environment), sexual harassment (Harassment), and hazing (Hazing). Students are given the electronic version of the catalog each year as well as a hard copy upon request from Student Success.

The Southeast Tech Student Success Center provides educational programs on various subjects including screenings for depression and alcohol awareness.

Referrals to community resources are also available to students (Student Success Center) and employees (Southeast Tech Human Resources Department). In addition, STC has banners placed on campus for employees and students which are moved from building to building throughout the year. The first banner lists the effects of drugs, alcohol, and tobacco/vaping. The second banner lists the resources (local & national) for those seeking help with crisis support, military veterans' assistance, immigration support, legal support, suicide prevention, and the National Sexual Assault hotline.

Southeast Tech Housing students are given additional information regarding Southeast Tech policies such as alcohol and drug use through the Southeast Tech Housing Handbook. Students receive the handbook prior to acceptance into housing and have another copy available in each apartment. The handbook contains emergency procedures and emergency contact information.



## 2022 Annual Security Report

Emergency contact information is also provided on magnets which are placed in each apartment in the complex.

All college employees are provided annually with the employee handbook as well as the Safety & Security Resource Guide. Employees also go through training annually at the Institutional Effectiveness days which occur twice a year. The Safety and Security Resource guide as well as the handbook are available on the website.

### **Programs to Inform Employees and Students about Campus Security Procedures and Practices – Types and Frequency**

Southeast Technical College provides to employees and students annual notices concerning campus security procedures and practices. Southeast Technical College encourages all employees and students to accept personal responsibility for their own safety and the safety of others and to report all crimes that occur on the College campus to campus security and administrators.

Employees and students are provided the Safety and Security Resource Guide and the Emergency Operations Plan (EOP) annually, and both publications are available through the Southeast Technical College website.

### **Reporting Clery Act Crimes and Voluntary, Confidential Crime Reporting**

Southeast Technical College encourages the campus community to immediately report Clery crimes or suspicious activity to Campus Security or to Campus Security Authorities (CSA) to help maintain the safest possible environment for students, faculty, staff, and visitors. A report from a victim who does not want to pursue action through Southeast Tech or the criminal justice system can be filed that maintains the confidentiality of the reporting individual. The college can document the report without revealing the victim's identity. This allows Southeast Tech to track the incident, compare it to other incidences, and take actions to keep further incidents from occurring.

“Campus Security Authority” is a Clery-specific term that encompasses certain Southeast Tech employees who have a duty to report crimes they become aware of, as defined by the Clery Act. The law defines a Campus Security Authority as “An official of an institution who has significant responsibility for student and campus activities, including but not limited to, student housing, student discipline and campus judicial proceedings.”

Southeast Technical College recognizes employees in the following roles as Campus Security Authorities:

- President of Southeast Technical College
- Vice President for Enrollment Management
- Vice President of Finance and Operations
- Vice President of Academic Affairs
- Associate Vice President for Institutional Effectiveness
- Deans of Curriculum and Instruction

## 2022 Annual Security Report

- Associate Deans of Curriculum and Instruction
- Director of Access and Workforce Opportunity
- Director of Human Resources
- Registrar
- Director of Admissions
- Academic Resource Center Coordinator
- Hovland Learning Center Director
- Director of Student Success
- Accessibility Services Coordinator
- Housing Advisors
- Campus Security Officers
- Intramural Sports Coaches
- Student Success Staff
- STC Club Advisors
- STC Additional Location Advisors

Clery Crimes include the following:

- Criminal Homicide
- Sexual Assault (Sex Offenses)
- Robbery
- Aggravated Assault
- Burglary
- Motor Vehicle Theft
- Arson
- Hate Crimes
- Dating Violence
- Domestic Violence
- Stalking
- Liquor Law Violation
- Drug Law Violation
- Illegal Weapons Possession

### **Security and Access to Campus Facilities**

Southeast Tech’s facilities, located on 168 acres adjacent to Interstate 29 in Sioux Falls, South Dakota, consists of nine buildings, including two housing facilities with 442 total student residents. Southeast Tech also has two additional locations in Sioux Falls and Huron South Dakota. The following chart is all the buildings and their respective addresses:

Mickelson Center	2320 N Career Ave. Sioux Falls, SD 57107	Andera Hall	2209 N Career Ave. Sioux Falls, SD 57107
Sullivan Health Center	2300 N Career Ave. Sioux Falls, SD 57107	Nicolay Hall	2221 N Career Ave. Sioux Falls, SD 57107

## 2022 Annual Security Report

Technology Center	2205 N Career Ave. Sioux Falls, SD 57107	Cold Storage	N/A
Wood Center	2000 N Career Ave. Sioux Falls, SD 57107	Sanford Stevens Center	900 E 54 <sup>th</sup> St. North Sioux Falls, SD 57104
HUB Center	2001 N Career Ave. Sioux Falls, SD 57107	Huron Community Campus	939 Ohio Ave. SW Huron, SD 57350
Scarborough Center	2304 N Lackey Place Sioux Falls, SD 57107		

Access to the Southeast Technical College campus facilities is authorized through the President's office. Building Keys are issued to staff as needed. All buildings are locked and unlocked by Southeast Tech Maintenance Staff. Southeast Tech employees must be present when buildings are open, unless other arrangements have been made. Southeast Tech buildings are opened sometime between 5:30 and 6:00am during the weekdays. All buildings are locked by maintenance in the evenings with the last two buildings being closed at 10:00pm when the night classes are finished. On Friday, the buildings will close at approximately 5:00pm. All buildings remain locked after hours and throughout the weekend unless prior arrangements have been made.

Students and visitors may access the facilities whenever they are open.

### Campus Neighborhood

#### Main Campus

The Southeast Technical College campus neighborhood is defined by The Clery Act as being located within these limits:

2000 – 2300 Block of N. Career Ave., Sioux Falls, SD 57107  
4100 Block W. Maple St. (southside only)  
2300 Block of N. Lackey Place, Sioux Falls, SD 57107

Campus Map: <https://www.southeasttech.edu/map-virtual-tour.php>

#### Additional Locations:

Sanford Stevens Center located at: 900 E. 54<sup>th</sup> St., Sioux Falls, SD 57104  
Huron Community Campus located at: 939 Ohio Ave. SW, Huron, SD 57350

### Security Considerations in the Maintenance of Campus Facilities

The Southeast Technical College maintenance staff is responsible for opening and closing all the campus facilities each day, excluding the two housing complexes. STC uses an Astra Calendar to schedule all events and classes. Each day the maintenance staff looks at the Astra Calendar to see what events and classes are taking place in each building and make sure those rooms are

## 2022 Annual Security Report

open before the event or classes take place. Maintenance repairs locks/doors when they are notified, which is usually by faculty and staff.

The Southeast Tech utilizes security cameras throughout all the buildings on campus, which can be reviewed by Campus Security, Vice Presidents, and the President. All the parking lot lights have photo sensors which automatically turn on the lights at sunset each day. When a light goes out, STC maintenance will replace those lamp lights.

Midwest Fire and Safety completed maintenance on all the fire extinguishers across the main campus. The sprinkler system is fully inspected every year by Prairie Fire Solutions. Midwest Alarm monitors the entire fire alarm system for the STC main campus, which is tested yearly.

Southeast Technical College housing has cameras located throughout the two complexes for constant monitoring. STC contracts with the Minnehaha County Sheriff's Department to provide a housing security officer who monitors the cameras from a security standpoint in real-time during his hours which are Tuesday-Saturday evenings. When students move into the housing complex they are given keys/fobs which allow them to enter the complex, their apartment, and their bedroom. The exterior doors to both housing complexes are always locked. Housing students are not to allow others to use the keys they have been issued, nor allow anyone to enter the building that they do not know. There is an electronic system installed in each apartment for residents to buzz in visitors.

### **Sex Offender Registration**

In accordance with the Campus Sex Crimes Prevention Act of 2000, which amends the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, the Jeanne Clery Act, and the Family Educational Rights and Privacy Act of 1974, Southeast Tech provides a link to the South Dakota Sex Offender Registry Website: <https://sor.sd.gov/> .

The act requires institutions of higher education to advise the campus community where the registered sex offender list provided by the state may be obtained. It also requires registered sex offenders in a state to provide notice of each institution of higher education in that state at which the person is employed or is a student.

Registry information provided under this section shall be used for the purposes of the administration of criminal justice, screening of current or prospective employees and volunteers or otherwise for the protection of the public in general and children in particular.

As stated on the South Dakota Sex Offender Registry website:

“ANY PERSON WHO USES INFORMATION CONTAINED IN OR ACCESSED THROUGH THIS WEBSITE TO THREATEN, INTIMIDATE, OR HARASS ANY INDIVIDUAL, INCLUDING REGISTRANTS OR FAMILY MEMBERS, OR WHO OTHERWISE MISUSES THIS INFORMATION, MAY BE SUBJECT TO CRIMINAL PROSECUTION. A violation is a Class 6 felony and the violator could be sentenced to the South Dakota State Penitentiary for up to two years and could be fined up to \$4,000. If you believe that any of the information found in these records is in error, or you would like additional information, please contact the sheriff of the county or the chief of police of the city where the sex offender resides.”

To view the Southeast Technical College Sexual Misconduct policy, go to <https://www.southeasttech.edu/footer/consumer-information.php#southeasttechpolicies>; click on Section J: Students and then scroll to JICK/STC for the policy and JICK-R/STC for the procedure.

## **Timely Warnings, Emergency Response, and Evacuation Procedures**

### **Timely Warnings**

The Chief Information Officer will issue a timely warning anytime a Clery-reportable crime is reported to a CSA, campus security, or the police, that may pose a serious or continuing threat to students, employees, or other members of the campus community, including guests. In the event that the CIO is not able to issue the timely warning, the VP of Enrollment Management, President of STC, VP of Finance and Operations, the Director of IT, and the VP of Academic Affairs all have the capability to issue the timely warning to the campus community.

Timely warnings will be issued on a case by case basis in light of the facts surrounding a crime, including the following circumstances:

- The type of crime reported must pose a serious or continuing threat to students, employees, or the campus property.
- Also in consideration of the timely warning would be the possible risk of compromising law enforcement efforts.

Should an event or situation arise, either on or off campus, that Southeast Tech believes warrants a timely warning to Southeast Tech employees, students, and other members of the campus community, Southeast Tech will use its Emergency Alert System to reach the campus community. Employees and students will receive a phone call, text (if a cell phone number is disclosed), and an email alerting them of the situation.

Southeast Technical College has created multiple pre-recorded templates within our IT department to send out to all students and employees in the event of an emergency. The templates can easily be modified to reflect whatever the situation might be that warrants a campus-wide notification. The following are the templates that have been created:

- Active Shooter (Ed Wood, Health Center, Tech Center, Mickelson, Scarbrough, and HUB buildings)
- Classes Cancelled Early (weather)
- Late Start Classes (weather)
- Office/Campus Closed (weather)
- Test of STC Alert System
- Active Shooter/Armed Intruder
- All Clear
- Biological Threat
- Bomb Found
- Bomb Threat

## 2022 Annual Security Report

- Campus Closed Weekend
- Campus Disturbance
- Child Abduction
- Explosion on Campus
- Fire on Campus
- Gas Leak on Campus
- Hazardous Material on Campus
- Hazardous Material Follow-up
- Lockdown/Shelter-in-place Drill
- Missing Person
- Police on Campus
- Protests on Campus (prior to event)

Southeast Tech has 24 silent panic buttons throughout all the buildings on campus. They are hidden under counters and desks throughout campus of those employees that service the campus community. In the event of an immediate threat where an employee is in fear of their safety, the employee can push the panic button discreetly which Midwest Alarm monitors and will contact the Sioux Falls Police Department as well as Southeast Tech's security officers. If any of the panic buttons lose connection, Midwest Alarm is immediately alerted, and measures are taken to get the panic button back online.

### **Emergency Response and Evacuation and Timely Warning Notification Policy**

Southeast Technical College's emergency notification and timely warning processes are consistent with the federal Clery Act legislation regarding emergency notification and timely warnings.

In conjunction with other emergency agencies, STC will test its procedure for emergency notifications at least once every calendar year.

### **Emergency Response and Evacuation Procedures**

Should Southeast Tech determine that an emergency response or evacuation procedure is necessary, the college will notify employees and students through both phone and email message through Southeast Tech's Emergency Alert System or other means including verbal communication through various staff members in person or by phone. Guides to emergency procedures are posted throughout the campus buildings so students and employees know where to go in the case of an evacuation.

Notification of an emergency will be made by Southeast Tech CIO, Security and/or Administration.

Southeast Tech's Child Care Center (Scarborough Center) conducts fire and evacuation drills four times a year. These drills are documented by the Fire Prevention Bureau.

## **Missing Student Notifications**

Reports of students missing from Southeast Technical College Housing are handled by the Student Life Coordinators in conjunction with Southeast Tech Campus Security. Non-Housing student missing student reports are handled by Southeast Tech Security. Reports are investigated and notification of a missing student is initiated as appropriate.

If a housing resident is under the age of 18, and not emancipated, their parent or guardian will be notified should that student go missing.

Missing person reports are submitted to Southeast Tech Security to assure that the official missing student reports are referred immediately to local law enforcement as appropriate.

Southeast Technical College has a missing person procedure as on-campus housing is available to students. The link to the Missing Person Procedures is <https://www.southeasttech.edu/resources/docs/footer/consumer-information/missing-person-procedures.pdf>.

## **Working Relationship of Campus Security and Law Enforcement**

Southeast Technical College has a full-time officer on campus that is employed through the Minnehaha County Sheriff's Department. Southeast Tech Housing also has a full-time Security Sheriff deputy who works evenings at the housing complexes. STC has a memorandum of understanding with the Minnehaha County Sheriff's Department to have 2 fully licensed law enforcement officers at the campus acting as Campus Security. Both officers have arrest powers as South Dakota Peace Officers.

## **Section 2 –**

### **Sexual Assault, Domestic Violence, Dating Violence, and Stalking Prevention and Response**

Southeast Technical College encourages all students, faculty, staff, and others within the STC community to take responsibility for creating a safe campus as well as take precautions to keep themselves as safe as they can.

Southeast Tech's policies, procedures, and educational opportunities on sexual assault have been designed to promote a safe living and learning environment, free from sexual assault, dating violence, domestic violence, and stalking (SA/DV/DV/S). It is Southeast Tech's goal to assure that when situations arise, we can determine remedies as quickly as possible to assure the continued safety and security of everyone within the STC community.

Therefore, any individual with information regarding a crime against a Southeast Tech Community member should report the incident to a Southeast Tech Administrator, designated

## 2022 Annual Security Report

CSAs, Southeast Tech Security Officers, Title IX Coordinator, Southeast Tech Housing Staff, or the Sioux Falls Police Department.

Filing a report with the Sioux Falls Police Department will not obligate the victim to prosecute.

Filing a Police Report will:

- Ensure that a victim of sexual assault receives the necessary medical treatments and tests, at no expense to the victim. If the victim does not want to file a police report, Southeast Tech staff will provide resources to receive these same services.
- Provide the opportunity for collection of evidence helpful in prosecution, which cannot be obtained later (ideally a victim of sexual violence should not wash, douche, use the toilet, or change clothing prior to a medical/legal exam.)
- Ensure that the victim has access to free confidential counseling from counselors specifically trained in the area of sexual assault crisis intervention (Southeast Tech staff will provide resources to receive these services in the absence of filing a police report).

Southeast Technical College has implemented the following to address procedures to educate the campus regarding Sexual Assault:

- Developed a flyer regarding sexual assault, including definition, awareness, prevention, and reporting, as well as who to contact for assistance to the victim.
- Require all employees to review the Southeast Tech policies regarding harassment and sexual assault.
- Reviewed information on the employee role regarding reporting sexual assault as well as the information provided on the flyer.
- Covered sexual assault information in the Student Success Seminar course.
- Covered sexual assault information with on-campus housing students during floor meetings.
- Sent all Southeast Tech students the flyer regarding sexual assault awareness, prevention, and reporting.

Southeast Technical College has adopted policy (JICK/STC) and related procedures (JICK-R/STC) found in Appendix 1 & 2 in order to inform all persons of how to report or file a complaint in the event they are or have knowledge of someone involved in an incident of sexual harassment to include SA/DV/DV/S, and to inform them how STC will respond. It is important that all students and employees read and understand this policy and the procedures in order to fully understand their rights, obligations, and options if sexual harassment including SA/DV/DV/S occurs. Upon knowledge of a SA/DV/DV/S event, the Title IX Coordinator will immediately contact the victim to assist with Southeast Tech's policies and procedures, supportive measures, and resources including written notification of information on existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available to the victim.



## Definitions

While definitions may vary by state, the following are commonly used definitions:

**Sexual Assault** is any sexual contact without consent. Sexual Assault can range from forcible fondling to penetration without consent, which is also known as rape.

**Dating violence/domestic violence, and/or intimate partner violence** are forms of abuse that occur in dating relationships when one person uses fear and intimidation tactics to establish power and control over another person. Dating and domestic violence can also include sexual violence or stalking. Domestic violence can happen to people of all ages, races, ethnicities, and religions. It occurs in both heterosexual and LGBT relationships.

**Stalking** is a “course of conduct” that causes the victim to experience serious emotional distress or to fear bodily injury or death. Conduct may include: sending the victim unwanted items or gifts; repeated calls, emails or texts, showing up at the victim’s home, workplace, or class.

**Consent** is a clear and freely given yes, not the absence on a no.

## Resources and Emergency External Reporting Options

Southeast Technical College is committed to treating all members of the campus community with dignity, care, and respect. All community members are encouraged to seek the support of campus and community resources when SA/DV/DV/S occurs. Community members are encouraged to use all available resources on and/or off campus, regardless of when or where the incident occurred.

### Internal Resources

- Campus Security – 605-367-7847
- Title IX Coordinator – Brett Arenz – 605-367-4670
- Student Success – 605-367-7466
- On-Campus Counselor – 605-367-4821

### External Resources

- Sioux Falls Police Department –911 or 605-367-7000
- The Compass Center – 605-339-0116
- Children’s Inn – 605-338-4880

## Section 3 –

### Drug and Alcohol Abuse Education Programs

Southeast Technical College is established as a drug-free campus. The unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance or alcohol on the Southeast Tech campus or at a Southeast-sponsored activity by any Southeast Tech employee or member of the student body is expressly prohibited. Individuals under the influence of alcohol will not be allowed to remain in any classes.

- Students must notify the school in writing within (5) days of any criminal conviction for a drug statute violation which occurred on campus or at a Southeast Tech event.
- Students must notify the Student Success Center in writing of use of a controlled substance by other employees/students on campus or at a Southeast Tech event.

Discipline measures will be used for student violations of this policy. Discipline may include a reprimand, suspension, termination, expulsion, and/or referral to law enforcement. Individuals found in violation will be referred to the appropriate professionals and officials. The purchase of alcoholic beverages by persons under age 21 and/or the furnishing of alcoholic beverages to a person under 21 is prohibited under state law.

Drug-free awareness programs will annually inform employees and students of drug abuse dangers and resources for counseling support. These programs are coordinated by the Student Success Center.

Individuals with drug-related concerns will be referred to Southeast Tech's professional counselor to discuss the availability of drug counseling and rehabilitation services. Southeast Tech complies with the Drug-Free Work Place Act of 1988. Southeast Technical College adheres to the guidelines set forth by the United States Office of Management and Budget on January 31, 1989. These guidelines require individuals receiving Federal Grants or working under Federal contracts to provide the college with a certified statement that their conduct will be drug free. Funds will be suspended for individuals found in violation.

The Family Educational Rights and Privacy Act (FERPA) protects student information from disclosure. The Higher Education Act of 1998 added a provision which states that FERPA cannot prevent a school from releasing information to a parent or legal guardian regarding the use or possession of alcohol or a controlled substance by a student, if the student is under the age of 21 and the institution determines that the student has committed a disciplinary violation with respect to such use or possession.

Southeast Technical College (in compliance with Southeast Technical College Policy GBEC/STI and GBEC-R/STI) requires a drug-free school environment. All employees and students are required to comply with this policy.

- The standards of conduct apply to all students who are registered at Southeast Technical College for at least one course (credit or noncredit).

## 2022 Annual Security Report

- Southeast Tech students occupying on-campus, residential housing must sign and adhere to housing specific contracts regarding drug-free policies.
- Standards of conduct also apply to all on-campus activities and to off-campus activities that are considered to be school-sponsored, such as officially sanctioned field trips.
- The details of this policy are available upon request for employee and student review in the Student Success Center and can be found on the Southeast Technical College website.
- Southeast Technical College supports rehabilitation of employees and students with drug abuse problems. (Please note that students requesting/receiving counseling services need to inform the counselors of any/all legal involvement as a provision of services. Recommendations and reports, as requested by the student, attorneys, and/or court of law are beyond the scope of practice provided by counselors here at Southeast Tech.)
- Drug-free awareness programs and/or services will annually inform employees and students of drug abuse dangers and resources for counseling support.
- Abuse (manufacture, distribution, dispersal, possession, or use) of a controlled substance on campus is prohibited.
- Responsibility for enforcing standards of conduct are shared among administration, staff, faculty, students, and security personnel.
- Employees and students must notify a Southeast Tech Administrator in writing within (5) days of any criminal conviction for a drug statute violation, which occurred anywhere on campus or during any Southeast Tech sponsored activity.
- Employees and students must notify a Southeast Tech Administrator in writing of use of a controlled substance by other employees/students on campus or during any Southeast Tech sponsored activity.
- Discipline measures will be used for staff/student violation of this policy. Discipline may include reprimand, suspension, termination, expulsion, and/or law enforcement referral.
- Individuals found in violation will be referred to the appropriate professionals/officials.
- Anyone who violates the policy is subject both to Southeast Tech's sanctions and to criminal sanctions.

### **Policy Distribution**

A weekly announcement during drug/alcohol awareness month will be shared with students and employees and include information regarding the policy. Policies are available on the Southeast Tech website for all employees and students to review 24/7. Information regarding the policy as well as drug and alcohol awareness are also provided at various Monthly Meetings and/or Professional Development trainings.

Concise summaries of the written policy are distributed through the Southeast Technical College website to all students in the Southeast Tech Catalog/Student Handbook. The Southeast Tech website also includes links to the full policies, which are available to all students and to the public 24/7. Southeast Tech Student Success Advisors cover the Southeast Tech Catalog/Student Handbook in the Student Success Seminar course, assuring that these students have access to the information. Online students are provided information regarding the Catalog/Student

## 2022 Annual Security Report

Handbook through communication from their assigned Success Advisor. Academic Advisors use the Southeast Tech Catalog when advising students to also assure that the information has been distributed to all Southeast Tech students.

Southeast Tech Housing covers the policy in the Housing Handbook and during mandatory floor meetings every fall semester. It is also discussed during judicial meetings, individual and group housing tours, and parent panel sessions at Academic Advisement and Registration.

### **Drug Testing for Commercial Drivers/Students**

All those meeting the Federal definition of drivers required to have a commercial driver's license and all students enrolled in a commercial driving program at Southeast Technical College shall be subject to drug testing. All drug testing will be conducted in accordance with U.S. Department of Transportation guidelines and regulations.

### **Use of Tobacco Products**

Southeast Technical College is a smoke free/tobacco free school. This means that smoking and other tobacco use is prohibited throughout the campus, ensuring that everyone has fresh, clean, air to breathe anywhere on campus. This restriction includes all forms of smoking and tobacco use, including electronic cigarettes (e-cig or e-cigarette), personal vaporizers (PV), electronic nicotine delivery systems (ENDS) or any type of smokeless cigarettes.

### **Known Health Risks**

Substance abuse causes various health risks to the individual such as, but not limited to: Fetal Alcohol Syndrome, depression, physical and psychological dependencies, suicide, accidental deaths, impaired memory, brain damage, and other interruptions of normal daily living. Southeast Tech strongly supports the philosophy of the holistic well-being of each student.

### **Annual Fire Safety Report**

Southeast Technical College collects fire statistics for the STC Housing Facilities. The information is then used to provide:

1. Number of fires
2. Cause of the fires
3. Any injuries requiring treatment at a medical facility
4. Fire-related deaths
5. Value of any property damage
6. Number of fire drills conducted per year.

Fires should be reported to the Housing Advisors, Southeast Tech Campus Security, or the Vice President of Finance and Operations.

January 2021 – December 2021 Southeast Tech Fire Statistics

Fire:	0
Cause:	N/A

## 2022 Annual Security Report

Deaths:	0
Injuries:	0
Value of Property Damage:	N/A

All Southeast Tech Housing apartments contain sprinkler systems and smoke detectors and meet required fire codes.

Fire extinguishers are strategically located throughout the residential facilities.

Southeast Tech Housing staff monitors fire alarms and sprinkler systems and report to the Sioux Falls Fire Department whenever the systems are activated or malfunctions.

The Southeast Tech Housing Handbook is provided to all residents in paper copy as well as online and contains information regarding safety procedures, including fire evacuations. The handbook also contains information regarding fire safety policies such as no open flames in the apartments, no smoking inside the building, etc.

Should the fire alarm sound, buildings are evacuated, and the local Sioux Falls Fire Department responds.

### **Fire Definitions**

**Fire:** Rapid oxidation of combustible material accompanied by heat, light and smoke of combustible material, which is found outside of its normal appliance, whether or not it is extinguished prior to arrival of emergency.

**Fire-Related Deaths/Injuries:** Number of persons dying or receiving injuries from fire-related incidents, including injury from a natural or accidental cause who received medical treatment at a local medical facility. This includes first responders attempting to control the fire, attempting a rescue, or persons escaping from the fire scene. Persons may include students, faculty, staff, visitors, firefighters, or any other individuals.

**Estimated U.S. Dollar Loss Related to Fire Incidents:** Estimated total U.S. dollar loss of both contents and structure or property destroyed because of a fire incident, not loss of business.

**Evacuation Procedures Posted:** When a fire alarm is activated, evacuation is mandatory. DO NOT use elevators; evacuate the building using the nearest available exit.



**SOUTHEAST**  
Technical College

## 2019-2021 Crime Statistics Summary

## 2022 Annual Security Report

<b>Criminal Offenses – On Campus</b>			
<b>Criminal Offense</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
Murder/Non-negligent manslaughter	0	0	0
Negligent Manslaughter	0	0	0
Sex Offenses – Forcible	0	0	0
Rape	0	0	0
Fondling	0	0	0
Sex Offenses – Non-Forcible	0	0	0
Incest	0	0	0
Statutory Rape	0	0	0
Robbery	0	0	0
Aggravated Assault	0	0	0
Burglary	0	0	0
Motor Vehicle Theft	0	0	1
Arson	0	0	0

<b>Criminal Offenses – Housing</b>			
<b>Criminal Offense</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
Murder/Non-negligent manslaughter	0	0	0
Negligent Manslaughter	0	0	0
Sex Offenses – Forcible	0	0	0
Rape	0	0	0
Fondling	0	0	0
Sex Offenses – Non-Forcible	0	0	0
Incest	0	0	0
Statutory Rape	0	0	0
Robbery	0	0	0
Aggravated Assault	0	0	0
Burglary	0	0	0
Motor Vehicle Theft	0	0	0
Arson	0	0	0

2022 Annual Security Report

<b>Criminal Offenses – Non-Campus Properties</b>			
<b>Criminal Offense</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
Murder/Non-negligent manslaughter	N/A	N/A	0
Negligent Manslaughter	N/A	N/A	0
Sex Offenses – Forcible	N/A	N/A	0
Rape	N/A	N/A	0
Fondling	N/A	N/A	0
Sex Offenses – Non-Forcible	N/A	N/A	0
Incest	N/A	N/A	0
Statutory Rape	N/A	N/A	0
Robbery	N/A	N/A	0
Aggravated Assault	N/A	N/A	0
Burglary	N/A	N/A	0
Motor Vehicle Theft	N/A	N/A	0
Arson	N/A	N/A	0

<b>Criminal Offenses – Public Property</b>			
<b>Criminal Offense</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
Murder/Non-negligent manslaughter	0	0	0
Negligent Manslaughter	0	0	0
Sex Offenses – Forcible	0	0	0
Rape	0	0	0
Fondling	0	0	0
Sex Offenses – Non-Forcible	0	0	0
Incest	0	0	0
Statutory Rape	0	0	0
Robbery	0	0	0
Aggravated Assault	0	0	0
Burglary	0	0	0
Motor Vehicle Theft	0	0	0
Arson	0	0	0



2022 Annual Security Report

<b>Hate Crimes – On Campus</b>			
<b>Criminal Offense</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
Murder/Non-negligent manslaughter	0	0	0
Negligent Manslaughter	0	0	0
Sexual Assault	0	0	0
Robbery	0	0	0
Aggravated Assault	0	0	0
Burglary	0	0	0
Motor Vehicle Theft	0	0	0
Arson	0	0	0
Simple Assault	0	0	0
Larceny-theft	0	0	0
Intimidation	0	0	0
Destruction/damage/vandalism of property	0	0	0

<b>Hate Crimes – Housing</b>			
<b>Criminal Offense</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
Murder/Non-negligent manslaughter	0	0	0
Negligent Manslaughter	0	0	0
Sexual Assault	0	0	0
Robbery	0	0	0
Aggravated Assault	0	0	0
Burglary	0	0	0
Motor Vehicle Theft	0	0	0
Arson	0	0	0
Simple Assault	0	0	0
Larceny-theft	0	0	0
Intimidation	0	0	0
Destruction/damage/vandalism of property	0	0	0

2022 Annual Security Report

<b>Hate Crimes – Non-Campus Properties</b>			
<b>Criminal Offense</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
Murder/Non-negligent manslaughter	N/A	N/A	0
Negligent Manslaughter	N/A	N/A	0
Sexual Assault	N/A	N/A	0
Robbery	N/A	N/A	0
Aggravated Assault	N/A	N/A	0
Burglary	N/A	N/A	0
Motor Vehicle Theft	N/A	N/A	0
Arson	N/A	N/A	0
Simple Assault	N/A	N/A	0
Larceny-theft	N/A	N/A	0
Intimidation	N/A	N/A	0
Destruction/damage/vandalism of property	N/A	N/A	0

<b>Hate Crimes – Public Property</b>			
<b>Criminal Offense</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
Murder/Non-negligent manslaughter	0	0	0
Negligent Manslaughter	0	0	0
Sexual Assault	0	0	0
Robbery	0	0	0
Aggravated Assault	0	0	0
Burglary	0	0	0
Motor Vehicle Theft	0	0	0
Arson	0	0	0
Simple Assault	0	0	0
Larceny-theft	0	0	0
Intimidation	0	0	0
Destruction/damage/vandalism of property	0	0	0

<b>Violence Against Women Act Offenses – On Campus</b>			
<b>Crime</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
Domestic Violence	0	0	0
Dating Violence	0	0	0
Stalking	0	0	0

2022 Annual Security Report

<b>Violence Against Women Act Offenses – Housing</b>			
<b>Crime</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
Domestic Violence	0	0	0
Dating Violence	0	0	0
Stalking	0	0	0

<b>Violence Against Women Act Offenses – Non-Campus Properties</b>			
<b>Crime</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
Domestic Violence	N/A	N/A	0
Dating Violence	N/A	N/A	0
Stalking	N/A	N/A	0

<b>Violence Against Women Act Offenses – Public Property</b>			
<b>Crime</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
Domestic Violence	0	0	0
Dating Violence	0	0	0
Stalking	0	0	0

<b>Arrests – On Campus</b>			
<b>Crime</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
Weapons: carrying, possessing, etc.	0	0	0
Drug Law Violations	0	1	4
Liquor Law Violations	4	18	16

<b>Arrests – Housing</b>			
<b>Crime</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
Weapons: carrying, possessing, etc.	0	0	0
Drug Law Violations	0	1	0
Liquor Law Violations	4	18	16

<b>Arrests – Non-Campus Properties</b>			
<b>Crime</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
Weapons: carrying, possessing, etc.	N/A	NA	0
Drug Law Violations	N/A	N/A	0
Liquor Law Violations	N/A	N/A	0

2022 Annual Security Report

<b>Arrests – Public Property</b>			
<b>Crime</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
Weapons: carrying, possessing, etc.	0	0	0
Drug Law Violations	0	0	0
Liquor Law Violations	0	0	0

<b>Disciplinary Actions – On Campus</b>			
<b>Crime</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
Weapons: carrying, possessing, etc.	0	0	0
Drug Law Violations	0	2	1
Liquor Law Violations	46	19	12

<b>Disciplinary Actions – Housing</b>			
<b>Crime</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
Weapons: carrying, possessing, etc.	0	0	0
Drug Law Violations	0	2	1
Liquor Law Violations	46	19	12

<b>Disciplinary Actions – Non-Campus Properties</b>			
<b>Crime</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
Weapons: carrying, possessing, etc.	N/A	N/A	0
Drug Law Violations	N/A	N/A	0
Liquor Law Violations	N/A	N/A	0

<b>Disciplinary Actions – Public Property</b>			
<b>Crime</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
Weapons: carrying, possessing, etc.	0	0	0
Drug Law Violations	0	0	0
Liquor Law Violations	0	0	0

## 2022 Annual Security Report

APPENDIX 1: POLICY NEPN CODE: JICK/STC

SEX/GENDER HARASSMENT, DISCRIMINATION, AND MISCONDUCT – TITLE IX



## Policies and Regulations

### NEPN Code: JICK/STC

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

Members of the Southeast Tech community, guests and visitors have the right to be free from all forms of sex/gender harassment, discrimination and misconduct, examples of which can include acts of sexual violence, sexual harassment, domestic violence, dating violence, and stalking. All members of the campus community are expected to conduct themselves in a manner that does not infringe upon the rights of others. Southeast Tech believes in zero tolerance for sex/gender-based misconduct. When an allegation of misconduct is brought to the appropriate administrator's attention, protective and other remedial measures will be used to reasonably ensure that such conduct ends, is not repeated, and the effects on the victim and community are remedied. Sanctions will be imposed if, after an investigation, a responding party is found to have violated this policy. This policy has been developed to reaffirm these principles and provide recourse for those individuals whose rights have been violated. This policy is intended to define expectations and establish a mechanism for determining when those expectations have been violated.

#### 1. Definitions

- *Advisor* means a person, who may be, but is not required to be an attorney, chosen by a party or appointed by the institution to accompany the party to meetings related to the Grievance Process, to advise the party on that process, and to conduct cross-examination for the party at the hearing, if any.
- *Appeal Decision-maker* refers to those who have decision-making authority within Appeals as part of the Grievance Process.
- *Complainant* means an individual who is alleged to be the victim of conduct that could constitute sexual harassment or retaliation for engaging in a protected activity. A Complainant must be participating in or attempting to participate in a Southeast Tech education program or activity at the time of filing the Formal Complaint.
- *Confidential Resource* means an employee who is not a Mandated Reporter of notice of harassment and/or retaliation (irrespective of Clery Act Campus Security Authority status).

## 2022 Annual Security Report

- *Day* means a business day when Southeast Tech is in normal operation.
- *Decision-maker(s)* means the Hearing Decision-maker, the Appeal Decision-maker, the Disciplinary Sanctions Decision-maker, or any combination thereof.
- *Disciplinary Sanction* means a consequence imposed by Southeast Tech on a Respondent who is found to have violated this policy. Disciplinary sanctions are not supportive measures and may be punitive and may burden the Respondent.
- *Disciplinary Sanction Decision-maker* refers to those who have decision-making authority in determining disciplinary sanctions as part of the Grievance process.
- *Education program or activity* means locations, events, or circumstances where Southeast Tech exercises substantial control over both the Respondent and the context in which the sexual harassment occurs and also includes any building owned or controlled by a student organization that is officially recognized by Southeast Tech.
- *Final Determination* means a conclusion by the preponderance of evidence standard that the alleged conduct did or did not violate policy.
- *Finding* means a conclusion by the preponderance of evidence standard that the conduct did or did not occur as alleged (as in a “finding of fact”).
- *Formal Complaint* means a document submitted and signed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment or retaliation against a Respondent and requesting that Southeast Tech investigate the allegation. At the time of submitting the Formal Complaint, a Complainant must be participating in or attempting to participate in the education program or activity of Southeast Tech.
- *Grievance Process*, also referred to as “Process A,” means the resolution process designated by Southeast Tech to address conduct that falls within this policy, and which complies with the requirements of the Title IX regulations (34 CFR §106.45).

## 2022 Annual Security Report

- *Grievance Process Pool* includes any investigators, informal resolution facilitators, hearing decision-makers, appeal decision-makers, and sanctioning decision-makers who may perform any or all of these roles (though not at the same time or with respect to the same case).
- *Hearing Decision-maker* refers to those who have decision-making authority within Hearings as part of the Grievance Process.
- *Investigator* means the person or persons charged by Southeast Tech with gathering facts about an alleged violation of this Policy, assessing relevance and credibility, synthesizing the evidence, and compiling this information into an investigation report and file of directly related evidence as part of the Grievance process.
- *Mandated Reporter* means an employee of Southeast Tech who is obligated by policy to share knowledge, Notice, and/or reports of harassment and/or retaliation with the Title IX Coordinator. The mere ability or obligation to report sexual harassment or to inform a student about how to report sexual harassment, or having been trained to do so, does not qualify an individual as an Official with Authority.
- *Notice (actual knowledge)* means that an employee, student, or third-party informs the Title IX Coordinator or other Official with Authority of sexual harassment or allegations of sexual harassment and/or retaliatory conduct. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. This standard is not met when the only official of Southeast Tech with actual knowledge is the Respondent.
- *Official with Authority (OWA)* means an employee of Southeast Tech explicitly vested with the authority to implement corrective measures for sexual harassment and/or retaliation on behalf of Southeast Tech.
- *Parties* include the Complainant(s) and Respondent(s), collectively.
- *Preponderance of Evidence* means more likely to have occurred than not. Under the preponderance standard, the burden of proof is met when there is a greater than 50% chance that something occurred.



## 2022 Annual Security Report

- *Process A* means the Formal Grievance Process used with this policy.
  
- *Process B* means any process designated by Southeast Tech to apply only when Process A does not, as determined by the Title IX Coordinator.
  
- *Remedies* are post-finding actions, where a determination of responsibility of sexual harassment has been made against the Respondent in accordance with the process set forth herein, directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and to restore or preserve equal access to Southeast Tech educational program or activity. Such remedies may include supportive measures; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the Respondent.
  
- *Respondent* means an employee, student, or organization that has been reported to be the perpetrator of conduct that could constitute sexual harassment or retaliation.
  
- *Resolution* means the result of an informal or Formal Grievance Process.
  
- *Sanction* means a consequence imposed by Southeast Tech on a Respondent who is found to have violated this policy.
  
- *Sexual Harassment* means conduct on the basis of sex that satisfies one or more of the following:
  - An employee of Southeast Tech conditioning the provision of an aid, benefit, or service of Southeast Tech on the individual's participation in unwelcome sexual conduct (i.e. quid pro quo); or
  - Unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to Southeast Tech's education program or activity; or
  - Sexual assault as defined in 20 U.S.C. 1092(f)(6)(A)(v); or ○ Dating violence as defined in 34 U.S.C. 12291(a)(10); or ○ Domestic violence as defined in 34 U.S.C. 12291(a)(8); or ○ Stalking as defined in 34 U.S.C. 12291(a)(30).

See Section 16 for greater detail.

## 2022 Annual Security Report

- *Supportive measures* means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Such measures are designed to restore or preserve equal access to Southeast Tech's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or Southeast Tech's educational environment or deter sexual harassment.
- *Title IX Coordinator* is at least one official designated by Southeast Tech to ensure compliance with Title IX and Southeast Tech's Title IX program. References to the Coordinator throughout this policy may also encompass a designee of the Coordinator for specific tasks.
- *Title IX Team* refers to the Title IX Coordinator, any deputy coordinators, and any member of the Grievance Process Pool.

### **2. Rationale for Policy**

Southeast Tech is committed to providing a workplace and educational environment, as well as other benefits, programs, and activities, that are free from sexual harassment and retaliation. To ensure compliance with federal and state civil rights laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the educational program or activity,

Southeast Tech has developed this policy and related procedures to provide a prompt, fair, and impartial process for those involved in an allegation of sexual harassment or retaliation as defined by this policy. Southeast Tech values and upholds the equal dignity of all members of its community and strives to balance the rights of the parties in the grievance process during what is often a difficult time for all those involved.

### **3. Applicable Scope**

This policy and associated procedures apply to all allegations of sexual harassment as defined in this policy occurring in connection with Southeast Tech's education program or activity within the United States. Alleged incidents of sexual discrimination or harassment not covered by this policy may be covered under other Southeast Tech's policies.

At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in the education program or activity of Southeast Tech, and the Respondent must be a member of the Southeast Tech community. This community includes, but is not limited to, students, student organizations, faculty, administrators, staff, and third parties such as guests, visitors, volunteers, and invitees.

#### **4. Title IX Coordinator**

Sioux Falls School District Title IX Coordinator Brett Arenz also serves as the Southeast Tech Title IX Coordinator and oversees implementation of this policy. The Title IX Coordinator has the primary responsibility for coordinating Southeast Tech's efforts related to the intake, implementation of supportive measures, and the Grievance Process. The Title IX Coordinator also has the primary responsibility for the design and implementation of remedies to stop, remediate, and prevent sexual harassment and retaliation prohibited under this policy.

Reports of alleged sex discrimination or sexual harassment and inquiries or concerns regarding this policy, may be made internally to:

Brett Arenz, Title IX Coordinator

201 E. 38<sup>th</sup> Street  
Sioux Falls, SD 57105  
605-367-4670

[Brett.Arenz@k12.sd.us](mailto:Brett.Arenz@k12.sd.us)

#### **5. Independence and Conflict-of-Interest**

The Title IX Coordinator acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this policy and these procedures.

The members of the Title IX Team are vetted and trained to ensure they are not biased for or against any party in a specific case, or for or against Complainants and/or Respondents, generally.

To raise any concern involving bias or conflict of interest by the Title IX Coordinator, contact the Southeast Tech President. Concerns of bias or a potential conflict of interest by a member of the Grievance Process Pool should be raised with the Title IX Coordinator.

Reports of misconduct committed by the Title IX Coordinator should be reported to the Southeast Tech President or designee. Reports of misconduct committed by a member of the Grievance Process Pool should be reported to the Title IX Coordinator.

#### **6. Required Training of the Title IX Team**

The Title IX Team consists of the Title IX Coordinator and the Grievance Process Pool (the Pool) who may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent. The Title IX Coordinator is trained annually, and Pool members will be trained in their role before participating in the Grievance Process.

All training materials for the Title IX Coordinator and the Pool must not rely on sex stereotypes and must promote impartial investigations and adjudications of Formal Complaints of sexual harassment. Training materials will be posted on the Title IX page of the Southeast Tech website.

## 2022 Annual Security Report

Training for the Title IX Coordinator and the Pool will include where appropriate for the role:

- The application of Southeast Tech’s Sexual Harassment – Title IX Policy and Procedures
- How to serve impartially, including avoiding prejudgment of the facts at issue, conflicts of interest, and bias
- The definition of sexual harassment as it applies in this Policy
- The scope of Southeast Tech’s education program or activity
- How to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable
- Issues of relevance to create an investigation report that fairly summarizes relevant evidence
- Issues of relevance of questions and evidence, including when questions and evidence about the Complainant’s sexual predisposition or prior sexual behavior are not relevant
- Reporting, confidentiality, and privacy requirements
- How to use any technology to be used at a live hearing

### **7. Notice and Formal Complaints of Sexual Harassment and/or Retaliation**

**Notice** – Any person may report (give Notice of) sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Southeast Tech Title IX Coordinator, or by any other means that results in the Southeast Tech Title IX Coordinator receiving the person’s verbal or written report. Such a report may be made at any time (including during nonbusiness hours) by using the telephone number, electronic mail address, or by mail to the office address listed for the Southeast Tech Title IX Coordinator in section 6. Reports may also be made to an Official of Authority. Upon Notice, Southeast Tech’s Title IX Coordinator will immediately contact the Complainant, if identified, to offer supportive measures and explain the process to file a Formal Complaint.

Anonymous reports are accepted but can give rise to a need to investigate. Southeast Tech tries to provide supportive measures to all Complainants, which may be impossible with an anonymous report. Because reporting carries no obligation to initiate a formal response, and as Southeast Tech respects Complainant requests to dismiss Formal Complaints unless there is a compelling threat to health and/or safety, the Complainant is largely in control and should not fear a loss of privacy by making a report that allows Southeast Tech to discuss and/or provide supportive measures.

**Formal Complaint** – A Complainant may file a Formal complaint with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information for the Title IX Coordinator in section 4. A Formal Complaint must contain the Complainant’s physical or digital signature and request that Southeast Tech investigate the allegations. If a Formal Complaint is submitted in a form that does not meet this standard, the Title IX Coordinator will contact the Complainant to ensure that it is filed correctly. Formal Complaints may also be filed with an Official with Authority (see section 18).

## 2022 Annual Security Report

The Title IX Coordinator may sign a Formal Complaint when it is deemed necessary for the safety and security of the campus. Where the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a complainant or otherwise a party.

### **8. Supportive Measures**

Upon Notice of alleged sexual harassment, Southeast Tech's Title IX Coordinator will promptly contact the Complainant to offer and implement appropriate and reasonable supportive measures. The Title IX Coordinator will work with the Complainant to ensure that their wishes are taken into account with respect to the supportive measures that are planned and implemented and inform the Complainant that supportive measures available with or without filing a Formal Complaint. At the time that supportive measures are offered, Southeast Tech will inform the Complainant, in writing, of the process to file a Formal Complaint with Southeast Tech either at that time or in the future, if they have not done so already. If a Complainant refuses supportive measures, the Title IX Coordinator will document the refusal.

Supportive measures may be offered to a Respondent upon the filing of a Formal Complaint.

All supportive measures offered and implemented will be documented. Southeast Tech will maintain the privacy of the supportive measures, provided that privacy does not impair Southeast Tech's ability to provide the supportive measures. Southeast Tech will act to ensure as minimal an academic impact on the parties as possible. Southeast Tech will implement supportive measures in a way that does not unreasonably burden the other party.

These actions may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
- Referral to the Employee Assistance Program
- Referral to community-based service providers
- Visa and immigration assistance
- Student financial aid counseling
- Education to the institutional community or community subgroup(s)
- Altering campus housing assignment(s)
- Altering work arrangements for employees or student-employees ● Safety planning
- Providing campus safety escorts
- Implementing contact limitations (no contact orders) between the parties
- Academic support, extensions of deadlines, or other course/program-related Adjustments
- No contact orders
- [Timely warnings](#)

## 2022 Annual Security Report

- Class schedule modifications
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title IX Coordinator

Violations of no contact orders will be referred to appropriate student or employee conduct processes for enforcement.

### **9. Emergency Removal**

Nothing contained in this policy shall preclude Southeast Tech from removing a student Respondent entirely or partially from Southeast Tech's education programs or activities on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal. JICK-R/STC describes the Emergency Removal process. A Formal Complaint and Grievance process do not need to be in place for an Emergency Removal to occur.

Where the Respondent is a non-student employee, the employee may be placed on administrative leave (with or without pay) while a Grievance Process is pending, without needing to meet the emergency removal standards.

### **10. Promptness**

All allegations are acted upon promptly by Southeast Tech once it has received Notice or a Formal Complaint. Formal Complaints can take 60-90 business days to resolve, typically. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, but Southeast Tech will avoid all undue delays within its control.

Any time the general timeframes for resolution outlined in Southeast Tech procedures will be delayed, Southeast Tech will provide written notice to the parties of the delay, the cause of the delay, and an estimate of the anticipated additional time that will be needed as a result of the delay.

### **11. Privacy**

Every effort is made by Southeast Tech to preserve the privacy of reports. Southeast Tech will not share the identity of any individual who has made a report (given Notice) of sexual harassment or retaliation; any

Complainant, any individual who has been reported to be the perpetrator of sexual harassment or retaliation, any

Respondent, or any witness, except as permitted by the Family Educational Rights and Privacy Act (FERPA), 20

## 2022 Annual Security Report

U.S.C. 1232g; FERPA regulations, 34 CFR part 99; or as required by law; or to carry out the purposes of 34 CFR Part 106, including the conducting of any investigation, hearing, or grievance proceeding arising under these policies and procedures.

For the purpose of this policy, privacy and confidentiality have distinct meanings.

- Privacy means that information related to a Notice, a Formal Complaint, supportive measures, and the Grievance Process will be shared with a limited number of Southeast Tech employees and the Title IX Team who “need to know” in order to assist in the assessment, investigation, and resolution of the report. All employees and Title IX Team members who are involved in Southeast Tech’s response to Notice under this policy receive specific training and guidance about sharing and safeguarding private information in accordance with state and federal law. The privacy of student education records will be protected in accordance with the Family Education Rights and Privacy Act (“FERPA”), as outlined in Southeast Tech’s FERPA policy. The privacy of employee records will be protected in accordance with Human Resources policies.
- Confidentiality exists in the context of laws that protect certain relationships, including those who provide services related to medical and clinical care, mental health providers, counselors, and ordained clergy. The law creates a privilege between certain health care providers, mental health care providers, attorneys, clergy, and others, with their patients, clients, and parishioners.

Southeast Tech reserves the right to determine which Southeast Tech officials have a legitimate educational interest in being informed about incidents that fall within this policy, pursuant to the Family Educational Rights and Privacy Act (FERPA). Information will be shared as necessary with Investigators, Decision-makers, witnesses, and the parties. The circle of people with this knowledge will be kept as tight as possible to preserve the parties’ rights and privacy.

Southeast Tech may contact parents/guardians to inform them of situations in which there is a significant and articulable health and/or safety risk but will usually consult with the student first before doing so.

### **12. Jurisdiction of Southeast Tech**

This policy applies to locations, events, or circumstances within the United States where Southeast Tech exercises substantial control over both the Respondent and the context in which the sexual harassment occurs and also includes any building owned or controlled by a student organization that is officially recognized by Southeast Tech.

If the Respondent is unknown or is not a member of the Southeast Tech community, the Title IX Coordinator will assist the Complainant with supportive measures and, when criminal conduct is alleged, in contacting local or campus law enforcement if the individual would like to file a police report.

## 2022 Annual Security Report

All vendors serving Southeast Tech through third-party contracts are subject to the policies and procedures of their employers or to these policies and procedures to which their employer has agreed to be bound by their contracts.

### **13. Time Limits on Reporting**

There is no time limitation on providing Notice/Formal Complaints to the Title IX Coordinator. However, if the Respondent is no longer subject to Southeast Tech's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible.

Acting on Notice/Formal Complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of policy) is at the discretion of the Title IX Coordinator, who may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

When Notice/Formal Complaint is affected by significant time delay, Southeast Tech will typically apply the policy in place at the time of the alleged misconduct and the procedures in place at the time of Notice/Formal Complaint.

### **14. Online Sexual Harassment and/or Retaliation**

The policies of Southeast Tech are written and interpreted broadly to include online harassment when the harassment occurs in or has an effect on Southeast Tech's education program or activities, or use or Southeast Tech networks, websites, email, technology, or equipment.

Any online posting or other electronic communication occurring completely outside of Southeast Tech's control

(e.g., not occurring in an education program or activity or not on Southeast Tech networks, websites, technology, equipment, or using Southeast Tech email accounts) will only be subject to this policy when such online conduct can be shown to cause a substantial disruption to Southeast Tech's education program or activity.

Although Southeast Tech may not control websites, social media, and other venues in which harassing communications are made, when such communications are reported to Southeast Tech, it will engage in a variety of means to address and mitigate the effects, and supportive measures will be offered to the Complainant.

### **15. Policy on Nondiscrimination**

Southeast Tech will respond promptly to allegations of sexual harassment in a manner that is not deliberately indifferent. Southeast Tech will treat Complainants and Respondents equitably by offering supportive measures to every Complainant and following the Grievance Process before imposition of



## 2022 Annual Security Report

any disciplinary sanctions or other actions that are not supportive measures, against a Respondent. Southeast Tech will pursue every Formal Complaint filed by a Complainant or signed by a Title IX Coordinator using the Grievance Process, and effectively implement remedies designed to restore or preserve a Complainant's equal educational access any time a Respondent is found responsible for sexual harassment.

In an effort to provide a safe, respectful educational environment, Southeast Tech prohibits discrimination in its policies, employment practices, programs and activities on the basis of race, color, creed, religion, age, gender (including pregnancy), sexual orientation, disability, national origin or ancestry, military/veteran status, genetic information or any other category protected by law. Southeast Tech prohibits acts of discrimination toward any individual(s) while on Southeast Tech property or at Southeast Tech sponsored activities. Southeast Tech prohibits discrimination against students on the basis of parental status, marital status, or pregnancy. Students will not be excluded from any program or activity, including any class based on the above. Prohibited acts of discrimination include racial, sexual, ethnic or other types of slurs, insults, intimidation, harassment and other such conduct directed toward another person.

### **16. Definitions of Sexual Harassment Including Force, Coercing, Consent, and Incapacitation**

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the State of South Dakota regard sexual harassment as an unlawful discriminatory practice.

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

Southeast Tech has adopted the following definition of sexual harassment in order to address the unique environment of an academic community.

**Sexual Harassment**, as an umbrella category, includes the actual or attempted offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking, and is defined as:

Conduct on the basis of sex or that is sexual that satisfies one or more of the following:

- 1) Quid Pro Quo:
  - a. an employee of the recipient,
  - b. conditions (implicitly or explicitly) the provision of an aid, benefit, or service of the recipient,
  - c. on an individual's participation in unwelcome sexual conduct.
  
- 2) Sexual Harassment:
  - a. unwelcome conduct,
  - b. determined by a reasonable person,
  - c. to be so severe, and
  - d. pervasive, and,
  - e. objectively offensive,
  - f. that it effectively denies a person equal access to Southeast Tech's education program or activity

## 2022 Annual Security Report

### 3) Sexual assault, defined as:

#### a. Sex Offenses, Forcible:

- Any sexual act directed against another person,
- without the consent of the Complainant,
- including instances in which the Complainant is incapable of giving consent.

#### Sexual acts include:

##### Forcible Rape:

- Penetration,
- no matter how slight,
- of the vagina or anus with any body part or object, or
- oral penetration by a sex organ of another person,
- without the consent of the Complainant.

##### Forcible Sodomy:

- Oral or anal sexual intercourse with another person,
- forcibly,
- and/or against that person's will (non-consensually), or
- not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age<sup>#</sup> or because of temporary or permanent mental or physical incapacity.

##### Sexual Assault with an Object:

- The use of an object or instrument to penetrate,
- however slightly,
- the genital or anal opening of the body of another person,
- forcibly,
- and/or against that person's will (non-consensually),
- or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

##### Forcible Fondling:

- The touching of the private body parts of another person (buttocks, groin, breasts),
- for the purpose of sexual gratification,
- forcibly,
- and/or against that person's will (non-consensually),

## 2022 Annual Security Report

- o or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
  
- b. Sex Offenses, Non-forcible:
  - o Incest:
    - 1) Non-forcible sexual intercourse,
    - 2) between persons who are related to each other,
    - 3) within the degrees wherein marriage is prohibited by South Dakota law.
  - o Statutory Rape:
    - 1) Non-forcible sexual intercourse,
    - 2) with a person who is under the statutory age of consent of South Dakota.
  
- 4) Dating Violence, defined as:
  - a. violence,
  - b. on the basis of sex,
  - c. committed by a person,
  - d. who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.
    - i. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition—
    - ii. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
    - iii. Dating violence does not include acts covered under the definition of domestic violence.
  
- 5) Domestic Violence, defined as:
  - a. violence,
  - b. on the basis of sex,
  - c. committed by a current or former spouse or intimate partner of the Complainant,
  - d. by a person with whom the Complainant shares a child in common, or
  - e. by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or
  - f. by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of South Dakota, or
  - g. by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of South Dakota.

## 2022 Annual Security Report

\*To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

6) Stalking, defined as:

- a. engaging in a course of conduct,
- b. on the basis of sex,
- c. directed at a specific person, that
  - i. would cause a reasonable person to fear for the person's safety, or
  - ii. the safety of others; or iii. Suffer substantial emotional distress.

For the purposes of this definition—

- (i) Course of conduct means two or more acts, including, but not limited to, acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- (ii) Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
- (iii) Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

Southeast Tech reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or expulsion/termination, for any offense under this policy.

### **Force, Coercion, Consent, and Incapacitation**

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

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

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

## 2022 Annual Security Report

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

**Consent is:**

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

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

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

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

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

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent.

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

Consent in relationships must also be considered in context. When parties consent to BDSM (bondage, discipline/dominance, submission/sadism, and masochism) or other forms of kink, non-consent may be

## 2022 Annual Security Report

shown by the use of a safe word. Resistance, force, violence, or even saying “no” may be part of the kink and thus consensual, so Southeast Tech’s evaluation of communication in kink situations should be guided by reasonableness, rather than strict adherence to policy that assumes non-kink relationships as a default.

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

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

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

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

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

### **17. Retaliation**

Protected activity under this policy includes reporting an incident that may implicate this policy, participating in the grievance process, supporting a Complainant or Respondent, assisting in providing information relevant to an investigation, and/or acting in good faith to oppose conduct that constitutes a violation of this Policy.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. Southeast Tech will take all appropriate and available steps to protect individuals who fear that they may be subjected to retaliation.

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

## 2022 Annual Security Report

Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or Formal Complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX or this policy, constitutes retaliation.

Filing a Formal Complaint within Process B could be considered retaliatory if those charges could be applicable under Process A, when the Process B charges are made for the purpose of interfering with or circumventing any right or privilege provided afforded within Process A that is not provided by Process B. Therefore, Southeast Tech vets all Formal Complaints carefully to ensure this does not happen, and to assure that Formal Complaints are tracked to the appropriate process.

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

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this policy and procedure does not constitute retaliation, provided that a determination regarding responsibility, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith.

Complaints alleging retaliation may be filed according to the grievance procedures for sex discrimination under Process B if Process A is not applicable.

### **18. Reporting Options and Mandated Reporting**

In order to make informed choices, it is important to be aware of confidentiality and mandatory reporting requirements when consulting campus resources.

#### **a. Title IX Coordinator**

Any person may report (give Notice of) sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Southeast Tech Title IX Coordinator in section 4 of this policy. Such a report may be made at any time (including during non-business hours) by using the telephone number, electronic mail address, or by mail to the office address listed for the Southeast Tech Title IX Coordinator.

#### **b. Official with Authority (OWA)**

Any person may report (give Notice of) sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could

## 2022 Annual Security Report

constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail to an OWA to include the following:

- Southeast Tech President
- VP of Academics
- VP of Enrollment Management
- VP of Finance and Operations
- Director of Human Resources

### **c. Confidential Resources**

If a Complainant would like the details of an incident to be kept confidential and the incident not to be reported to the Title IX Coordinator or to an OWA to trigger action under this policy, the Complainant may do the following:

- Speak directly with one of Southeast Tech's licensed professional personal counselors
- Request to speak to a licensed professional personal counselor through the student's Success Advisor without revealing the alleged sexual harassment. If the student informs the Success Advisor of the alleged sexual harassment, the Success Advisor will be obligated to inform the Title IX Coordinator.
- Non-student employees may utilize the Southeast Tech Employee Assistance Plan.
- Utilize community resources such as those on the Title IX page of the Southeast Tech website, which may include:
  - Licensed professional counselors and other medical providers
  - Local rape crisis counselors ○ Domestic violence resources ○ Local or state assistance agencies
  - Clergy/Chaplains
  - Attorneys

All of the above-listed individuals will maintain confidentiality when acting under the scope of their licensure, professional ethics, and/or professional credentials, except in extreme cases of immediacy of threat or danger or abuse of a minor/elder/individual with a disability, or when required to disclose by law or court order.

### **d. Mandated Reporters and Formal Notice/Complaints**

Mandated Reporters are Southeast Tech employees who are expected to report actual or suspected sexual harassment to the Title IX Coordinator or to an OWA immediately upon knowledge. Mandated Reporters must promptly share all details of behaviors under this policy that they observe or have knowledge of, even if not reported to them by a Complainant or third-party.



## 2022 Annual Security Report

The following are designated by Southeast Tech as Mandated Reporters:

- Supervisors of Southeast Tech employees
- Faculty
- Student Success Advisors
- Library, Disability Services, Tutoring Coordinator
- Southeast Tech Student Organization and Club Advisors

Generally, disclosures in climate surveys, classroom writing assignments or discussions, human subjects research, or at events such as “Take Back the Night” marches or speak-outs do not provide Notice that must be reported to the Title IX Coordinator or an OWA by Mandatory Reporters, unless the Complainant clearly indicates that they desire a report to be made or a seek a specific response from Southeast Tech.

Failure of a Mandated Reporter, as described above in this section, to report an incident of sexual harassment or retaliation of which they become aware is a violation of Southeast Tech policy and can be subject to disciplinary action for failure to comply. If a Mandatory Reporter fails to report an incident of sexual harassment of which they become aware of to the Title IX Coordinator or an OWA, Southeast Tech is not on Notice.

Though this may seem obvious, when a Mandated Reporter is engaged in harassment or other violations of this policy, they still have a duty to report their own misconduct, though Southeast Tech is technically not on Notice when a harasser is also a Mandated Reporter unless the harasser does in fact report themselves.

Finally, it is important to clarify that a Mandated Reporter who is themselves a target of harassment or other misconduct under this policy is not required to report their own experience, though they are, of course, encouraged to do so.

### **19. When a Complainant Does Not Wish to Proceed**

If a Complainant does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a Formal Complaint to be pursued, they may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and to comply with state or federal law.

The Title IX Coordinator has ultimate discretion over whether Southeast Tech proceeds when the Complainant does not wish to do so, and the Title IX Coordinator may sign a Formal Complaint to initiate a grievance process. The Title IX Coordinator’s decision should be based on a compelling risk to health and/or safety that requires Southeast Tech to pursue formal action to protect the community. A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory

## 2022 Annual Security Report

conduct, threats, abuse of minors, use of weapons, and/or violence. Southeast Tech may also be compelled to act on alleged employee misconduct irrespective of a Complainant's wishes.

The Title IX Coordinator must also consider the effect that non-participation by the Complainant may have on the availability of evidence and Southeast Tech's ability to pursue a Formal Grievance Process fairly and effectively.

When the Title IX Coordinator executes the written complaint, they do not become the Complainant. The Complainant is the individual who is alleged to be the victim of conduct that could constitute a violation of this policy.

When Southeast Tech proceeds, the Complainant may have as much or as little involvement in the process as they wish. The Complainant retains all rights of a Complainant under this Policy irrespective of their level of participation.

Note that Southeast Tech's ability to remedy and respond to Notice may be limited if the Complainant does not want Southeast Tech to proceed with a Formal Complaint. The goal is to provide the Complainant with as much control over the process as possible, while balancing the Southeast Tech's obligation to protect its community.

In cases in which the Complainant requests confidentiality/no formal action and the circumstances allow Southeast Tech to honor that request, Southeast Tech will offer supportive measures to the Complainant and the community but will not otherwise pursue formal action.

If the Complainant elects to take no action, they can change that decision if they decide to pursue a Formal Complaint at a later date. Upon making a Formal Complaint, a Complainant has the right, and can expect, to have allegations taken seriously by Southeast Tech, and to have the incidents investigated and properly resolved through the Grievance Process. Please consider that delays may cause limitations on access to evidence, or present issues with respect to the status of the parties.

### **20. Federal Timely Warning Obligations**

Parties reporting sexual assault, domestic violence, dating violence, and/or stalking should be aware that under the Clery Act, Southeast Tech must issue timely warnings for incidents reported to them that pose a serious or continuing threat of bodily harm or danger to members of the campus community.

Southeast Tech will ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

## **21. False Allegations and Evidence**

Deliberately false and/or malicious accusations under this policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a policy violation determination.

Additionally, witnesses and parties knowingly providing false evidence, tampering with or destroying evidence, or deliberately misleading an official conducting an investigation can be subject to discipline under Southeast Tech policy.

## **22. Amnesty for Complainants and Witnesses**

Southeast Tech community encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to report to Southeast Tech officials or participate in grievance processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons.

It is in the best interests of the Southeast Tech community that Complainants choose to report misconduct to Southeast Tech officials, that witnesses come forward to share what they know, and that all parties be forthcoming during the process.

To encourage reporting and participation in the process, Southeast Tech maintains a practice of offering parties and witnesses amnesty from minor policy violations – such as underage consumption of alcohol or the use of illicit drugs – related to the incident.

Amnesty does not apply to more serious allegations such as physical abuse of another or illicit drug distribution. The decision not to offer amnesty is based on neither sex nor gender, but on the fact that collateral misconduct is typically addressed for all students and employees within a progressive discipline system, and the rationale for amnesty – the incentive to report serious misconduct – is rarely applicable to Respondent with respect to a Complainant.

Sometimes, employees are hesitant to report sexual harassment or retaliation they have experienced for fear that they may get in trouble themselves. For example, an employee who has violated the consensual relationship policy and is then assaulted in the course of that relationship might hesitate to report the incident to Recipient officials.

## 2022 Annual Security Report

The Recipient may, at its discretion, offer employee Complainants amnesty from such policy violations (typically more minor policy violations) related to the incident. Amnesty may also be granted to Respondents and witnesses on a case-by-case basis].

### **23. External Administrative Contact Information**

Inquiries may be made externally to:

Office for Civil Rights (OCR)

U.S. Department of  
Education 400  
Maryland Avenue,  
SW

Washington, D.C. 20202-1100

Customer Service Hotline #: (800) 421-3481

Facsimile: (202) 453-6012

TDD#: (877) 521-2172

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

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

The EEOC has jurisdiction over Title IX Employment Claims. For Title IX concerns involving employees, inquiries may be made externally to:

Minneapolis Area Office

Towle Building

330 South Second Avenue, Suite 720

Minneapolis, MN 55401-2224

Phone: 612-552-7306

TTY: 1-800-669-6820

ASL Video Phone: 844-234-5122

### **24. Revision of this Policy and Related Procedures**

This Policy and related procedures 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

## 2022 Annual Security Report

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 this Policy and procedures.

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.

Legal references:

Title IX of the US Education Amendments of 1972; 34 CFR Part 106; 20 U.S.C. 1092(f)(6)(A)(v); 34 U.S.C. 12291(a)(10); 34 U.S.C. 12291(a)(8); U.S.C. 12291(a)(30); Jeanne Clery Disclosure of Campus Security Policy and

Campus Crime Statistics Act (Clery Act); Violence Against Women Act (VAWA); Family Educational Rights and Privacy Act (FERPA); 20 U.S.C. 1232g; FERPA regulations; 34 CFR part 99

ATIXA 2020 INTERIM MODEL SEXUAL HARASSMENT POLICIES AND PROCEDURES  
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## 2022 Annual Security Report

### APPENDIX A: POLICY EXAMPLES

Some examples of possible sexual harassment include:

- A professor offers for a student to have sex or go on a date with them in exchange for a good grade. This constitutes sexual harassment regardless of whether the student accedes to the request and irrespective of whether a good grade is promised or a bad grade is threatened.
- A student repeatedly sends graphic, sexually-oriented jokes and pictures around campus via social media to hundreds of other students. Many don't find it funny and ask them to stop, but they do not. Because of these jokes, one student avoids the sender on campus and in the residence hall in which they both live, eventually asking to move to a different building and dropping a class they had together.
- A professor engages students in class in discussions about the students' past sexual experiences, yet the conversations are not in any way germane to the subject matter of the class. The professor inquires about explicit details and demands that students answer them, though the students are clearly uncomfortable and hesitant.
- An ex-partner widely spreads false stories about their sex life with their former partner to the clear discomfort and frustration of the former partner, turning the former partner into a social pariah on campus.
- Chris has recently transitioned from male to non-binary, but primarily expresses as a female. Since their transition, Chris has noticed that their African Studies professor, Dr. Mukembo, pays them a lot more attention. Chris is sexually attracted to Professor Mukembo and believes the attraction is mutual. Chris decides to act on the attraction. One day, Chris visits Dr. Mukembo during office hours, and after a long conversation about being non-binary, Chris kisses Dr. Mukembo. Dr. Mukembo is taken aback, stops the kiss, and tells Chris not to do that. Dr. Mukembo explains to Chris that they are not interested in Chris sexually or romantically. Chris takes it hard, crying to Dr. Mukembo about how hard it is to find someone who is interested in them now based on their identity. Dr. Mukembo feels sorry for Chris and softens the blow by telling them that no matter whether they like Chris or not, faculty-student relationships are prohibited by the university. Chris takes this as encouragement. One night, Chris goes to a gay bar some distance from campus and sees Dr. Mukembo at the bar. Chris tries to buy Dr. Mukembo a drink and, again, tries to kiss Dr. Mukembo. Dr. Mukembo leaves the bar abruptly. The next day, Chris makes several online posts that out Dr. Mukembo as gay and raise questions about whether they are sexually involved with students. Dr. Mukembo contacts the Title IX Office and alleges that Chris is sexually harassing him.

## 2022 Annual Security Report

### Examples of Stalking

- Students A and B were “friends with benefits.” Student A wanted a more serious relationship, which caused student B to break it off. Student A could not let go, and pursued student B relentlessly. Student B obtained a campus no-contact order. Subsequently, Student B discovered their social media accounts were being accessed, and things were being posted and messaged as if they were from them, but they were not. Whoever accessed their account posted a picture of a penis, making it look as if they had sent out a picture of themselves, though it was not their penis. This caused them considerable embarrassment and social anxiety. They changed their passwords, only to have it happen again. Seeking help from the Title IX Coordinator, Student B met with the IT department, which discovered an app on their phone and a keystroke recorder on their laptop, both of which were being used to transmit their data to a third party.
- A graduate student working as an on-campus tutor received flowers and gifts delivered to their office. After learning the gifts were from a student they recently tutored, the graduate student thanked the student and stated that it was not necessary and would appreciate it if the gift deliveries stopped. The student then started leaving notes of love and gratitude on the tutor’s car, both on-campus and at home. Asked again to stop, the student stated by email, “You can ask me to stop, but I’m not giving up. We are meant to be together, and I’ll do anything to make you have the feelings for me that I have for you.” When the tutor did not respond, the student emailed again, “You cannot escape me. I will track you to the ends of the earth. If I can’t have you, no one will.”

### Examples of Sexual Assault:

- Amanda and Bill meet at a party. They spend the evening dancing and getting to know each other. Bill convinces Amanda to come up to his room. From 11:00 p.m. until 3:00 a.m., Bill uses every line he can think of to convince Amanda to have sex with him, but she adamantly refuses. Despite her clear communications that she is not interested in doing anything sexual with him, Bill keeps at her, questions her religious convictions, and accuses her of being “a prude.” He brings up several rumors that he has heard about how she performed oral sex on a number of other guys. Finally, it seems to Bill that her resolve is weakening, and he convinces her to “jerk him off” (hand to genital contact). Amanda would have never 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.
- Jiang is a junior. Beth is a sophomore. Jiang comes to Beth’s residence hall room with some mutual friends to watch a movie. Jiang and Beth, who have never met before, are attracted to each other. After the movie, everyone leaves, and Jiang and Beth are alone. They hit it off, soon become more intimate, and start to make out. Jiang verbally expresses his desire to have sex with Beth. Beth, who was abused by a babysitter at the age of five and avoids sexual relations as a result, is shocked at how quickly things are progressing. As Jiang takes her by the

## 2022 Annual Security Report

wrist over to the bed, lays her down, undresses, and begins to have intercourse with Beth, Beth has a severe flashback to her childhood trauma. She wants to tell Jiang to stop but cannot. Beth is stiff and unresponsive during the intercourse.

- Kevin and John are at a party. Kevin is not sure how much John has been drinking, but he is pretty sure it's a lot. After the party, he walks John to his apartment, and John comes on to Kevin, initiating sexual activity. Kevin asks John if he is really up to this, and John says yes. They remove each other's clothes, and they end up in John's bed. Suddenly, John runs for the bathroom. When he returns, his face is pale, and Kevin thinks he may have thrown up. John gets back into bed, and they begin to have sexual intercourse. Kevin is having a good time, though he can't help but notice that John seems pretty groggy and passive, and he thinks John may have even passed out briefly during the sex, but he came to again. When Kevin runs into John the next day, he thanks him for the great night. John remembers nothing and decides to make a report to the Dean.

### Examples of Retaliation:

- Student-athlete A alleges sexual harassment by a coach; the coach subsequently cuts the student-athlete's playing time without a legitimate justification.
- A faculty member alleges gender inequity in pay within her department; the Department Chair then revokes his approval for her to attend a national conference, citing the faculty member's tendency to "ruffle feathers."
- A student from Organization A participates in a sexual harassment investigation as a witness whose testimony is damaging to the Respondent, who is also a member of Organization A; the student is subsequently removed as a member of Organization A because of their participation in the investigation.

Policy		Board Action
Adopted:	09.05.18	ST00331
Amended:	09.30.20	ST00495



2022 Annual Security Report

APPENDIX 2: PROCEDURES NEPN CODE: JICK-R/STI  
SEX/GENDER HARASSMENT, DISCRIMINATION, & MISCONDUCT  
TITLE IX – GRIEVANCE PROCESS



## Policies and Regulations

NEPN Code: JICK-R/STI

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### Students

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

#### Title IX Coordinator

### GRIEVANCE PROCESS – PROCESS A

ATIXA 2020 INTERIM MODEL SEXUAL HARASSMENT POLICIES AND PROCEDURES  
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#### 1. Definitions

See Policy JICK/STI

#### 2. Overview

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

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

##### a) **Advisor**

Southeast Tech will not limit the choice or presence of an Advisor ([Appendix A](#)) for either the Complainant or Respondent in any meeting or grievance proceeding; however, Southeast Tech may establish restrictions regarding the extent to which the Advisor may participate in the proceedings, as long as the restrictions apply equally to both parties.

## 2022 Annual Security Report

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

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

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

### **c) Counterclaims**

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

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

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

### **d) Disciplinary Sanctions**

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

See [Appendix B](#) for the determination, implementation, and types of disciplinary sanctions.

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

## 2022 Annual Security Report

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

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

### **f) Emergency Removal**

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

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

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

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

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

## 2022 Annual Security Report

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

### **g) Ensuring Impartiality**

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

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

### **h) Notice of Participation**

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

### **i) Preservation of Records/Recordkeeping**

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

1. Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation;
2. Any disciplinary sanctions imposed on the Respondent;
3. Any remedies provided to the Complainant designed to restore or preserve equal access to Southeast Tech's education program or activity;
4. Any Appeal and the result therefrom;
5. Any Informal Resolution and the result therefrom;
6. All materials used to train Title IX Coordinators, Investigators, Decision-makers, and any person who facilitates an Informal Resolution process. Southeast Tech will make these training materials publicly available on Southeast Tech's website; and
7. Any actions, including any supportive measures, taken in response to a report or Formal Complaint of sexual harassment, including:

## 2022 Annual Security Report

- a. The basis for all conclusions that the response was not deliberately indifferent;
- b. Any measures designed to restore or preserve equal access to Southeast Tech's education program or activity; and
- c. If no supportive measures were provided to the Complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

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

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

Resolution proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accordance with Southeast Tech policy. Although there is an expectation of privacy around what Investigators share with parties during interviews, the parties have discretion to share their own knowledge and evidence with others if they so choose, with the exception of information the parties agree not to disclose related to an Informal Resolution. Southeast Tech encourages parties to discuss any sharing of information with their Advisors before doing so.

### **k) Remedies**

Following the conclusion of the resolution process, where a determination of responsibility of sexual harassment has been made against the Respondent, remedies may be directed to the Complainant to restore or preserve equal access to Southeast Tech's education program or activity. Remedies may consist of supportive measures, but remedies may also include actions that in fact burden the Respondent or are punitive or disciplinary in nature. The Title IX Coordinator is responsible for effective implementation of any remedies.

Southeast Tech will maintain the privacy of any remedies, provided privacy does not impair Southeast Tech's ability to provide these services.

These remedies may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Education to the individual and/or the community
- Permanent alteration of work arrangements for employees
- Climate surveys
- Policy modification and/or training
- Implementation of long-term contact limitations between the parties

## 2022 Annual Security Report

- Implementation of adjustments to academic deadlines, course schedules, etc.

### **I) 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.

## 2022 Annual Security Report

### 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.

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](#)).



## 2022 Annual Security Report

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.

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

The NOIA and any amendments or updates will be made simultaneously to the parties in writing and may be delivered by one or more of the following methods: in person, mailed to the local or

## 2022 Annual Security Report

permanent address(es) of the parties as indicated in official Southeast Tech records, emailed to the parties' Southeast Tech-issued email, or mailed to the local or permanent address(es) of the parties as indicated in official Southeast Tech records. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

### **4. Informal Resolution Option**

If an Informal Resolution option is requested by either the Complainant or the Respondent, the Title IX

Coordinator assesses whether the Formal Complaint is suitable for Informal Resolution. If the Title IX Coordinator determines an Informal Resolution is viable, the Title IX Coordinator will determine if the both parties are willing to engage in Informal Resolution.

Informal Resolution process and options are in [Appendix F](#).

### **5. Formal Resolution**

#### **a) Grievance Process Pool**

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

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

#### **b) Resolution Timeline**

Southeast Tech will make a good faith effort to complete the resolution process within a sixty-to-ninety (60-

90) day time period, including appeal, which can be extended as necessary for appropriate cause by the Title IX Coordinator, who will provide notice and rationale for any extensions or delays to the parties as appropriate, as well as an estimate of how much additional time will be needed to complete the process.

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

Southeast Tech may undertake a short delay or provide an extension of time in its resolution process (several days to a few weeks) for good cause. Such circumstances may include but

## 2022 Annual Security Report

are not limited to: the absence of a party, a party's Advisor, or a witness; concurrent law enforcement activity with law enforcement asking to temporarily delay the Grievance Process; or the need for accommodation of disabilities.

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

Southeast Tech action(s) or processes are not typically altered or precluded on the grounds that civil or

criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

### **d) Appointment of Investigators**

Once the decision to commence a formal investigation is made, the Title IX Coordinator appoints

Investigator(s) to conduct the investigation, usually within two (2) days of determining that an investigation should proceed.

### **e) Objective Evaluation of Evidence**

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

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

### **f) Investigation Timeline**

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

## 2022 Annual Security Report

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

### **g) Steps in the Investigation Process**

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

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

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

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

- Identify all policies implicated by the alleged misconduct
- Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for all witnesses and the parties
- Provide, to a person whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of the investigative interview with sufficient time for the person to prepare to participate
- Interview all available, relevant witnesses and conduct follow-up interviews as necessary

## 2022 Annual Security Report

- Gather, assess, and synthesize evidence, but make no conclusions and render no recommendations as part of their report
- Perform an objective evaluation of all relevant evidence – including both inculpatory and exculpatory evidence – and provide that credibility determinations may not be based on a person’s status as a Complainant, Respondent, or witness
- Provide regular status updates to the parties throughout the investigation
- Write an Initial Investigation Report fully summarizing the investigation, all witness interviews, and fairly addressing all relevant evidence and provide the report to the parties and the parties’ Advisor, if any, for review and a written response:
  - The Initial Investigation Report must provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a Formal Complaint, including the evidence upon which Southeast Tech does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation
  - Southeast Tech will send to each party and the party’s Advisor, if any, the Initial Investigation Report and evidence subject to inspection and review in an electronic format or a hard copy, and the parties will have at least 10 days to submit a written response, which the Investigator will consider prior to completion of the Final Investigation Report. The parties may elect to waive the full ten days
  - Southeast Tech will also make all such evidence subject to the parties’ inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination
- The Investigator may elect to respond in writing in the Initial Investigation Report to the parties’ submitted responses and/or to share the responses between the parties for additional responses
- The Investigator will incorporate relevant elements of the parties’ written responses into the Final Investigation Report, include any additional relevant evidence, make any necessary revisions, and finalize the report. The Investigator should document all rationales for any changes made after the review and comment period

## 2022 Annual Security Report

- The Investigator shares the report with the Title IX Coordinator for their review and feedback
- 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.

## 2022 Annual Security Report

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.

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

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

### **m) Evidentiary Considerations in the Hearing**

Any evidence that the Decision-maker determines is relevant and credible may be considered. The hearing 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.

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

## 2022 Annual Security Report

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

### **n) Notice of Hearing**

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

The notice will contain:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential disciplinary sanctions that could result.
- The time, date, and location of the hearing and a reminder that attendance is mandatory, superseding all other campus activities.
- Any technology that will be used to facilitate the hearing.
- Information about the option for the live hearing to occur with the parties located in separate rooms using technology that enables the Decision-maker and parties to simultaneously see and hear a party or witness answering questions. Such a request must be raised with the Title IX Coordinator at least five (5) days prior to the hearing.
- A list of all those who will attend the hearing, along with an invitation to object to any Decision-maker on the basis of demonstrated bias. This must be raised with the Title IX Coordinator at least five (5) days prior to the hearing.
- Information on how the hearing will be recorded and on access to the recording for the parties after the hearing.
- A statement that if any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence, and the party's or witness's testimony and any statements given prior to the hearing will not be considered by the Decision-maker. For compelling reasons, the Decisionmaker or Title IX Coordinator may reschedule the hearing.
- Notification that the parties may have the assistance of an Advisor of their choosing at the hearing and will be required to have one present for any questions they may desire to ask. The party must notify the Title IX Coordinator if they do not have an



## 2022 Annual Security Report

Advisor, and Southeast Tech will appoint one. Each party must have an Advisor present. There are no exceptions.

- A copy of all the materials that will be provided to or have been provided to the Decision-maker about the matter, unless they have been provided already.
- An invitation to contact the Title IX Coordinator to arrange any disability accommodations that may be needed at the hearing, at least seven (7) days prior to the hearing.
- Whether parties can/cannot bring mobile phones/devices into the hearing.

Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to Policy JICK) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline followed by Southeast Tech and remain within the 60-90 day goal for resolution.

In these cases, if the Respondent is a graduating student, a hold may be placed on graduation and/or official transcripts until the matter is fully resolved (including any appeal).

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

If a party or parties prefer not to attend or cannot attend the hearing in person, the party should request alternative arrangements from the Title IX Coordinator at least five (5) days prior to the hearing.

The Title IX Coordinator can arrange to use technology to allow remote testimony without compromising the fairness of the hearing. Remote options may also be needed for witnesses who cannot appear in person. Any witness who cannot attend in person should let the Title IX Coordinator know at least five (5) days prior to the hearing so that appropriate arrangements can be made.

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

The Title IX Coordinator, after any necessary consultation with the parties and the Pool, will provide the names of persons who will be participating in the hearing, all pertinent documentary evidence, and the Final Investigation Report to the parties at least ten (10) days prior to the hearing, if not already done.

Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator, unless all parties and the Chair assent to the witness's participation in the

## 2022 Annual Security Report

hearing. The same holds for any evidence that is first offered at the hearing. If the parties and Chair do not assent to the admission of evidence newly offered at the hearing, the Chair may delay the hearing and instruct that the investigation needs to be re-opened to consider that evidence.

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

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

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

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

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

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

## 2022 Annual Security Report

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

### **r) Hearing Procedures**

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

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

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

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

### **s) Joint Hearings**

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

However, the Title IX Coordinator may permit the investigation and/or hearings pertinent to each

Respondent to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent with respect to each alleged policy violation.

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

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

## 2022 Annual Security Report

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

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

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

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

### **v) Testimony and Questioning**

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

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

The Chair will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), or abusive. The Chair has final say on all questions and determinations of relevance. The Chair may ask Advisors to frame why a question is or is not relevant from their perspective but will not entertain argument from the Advisors on relevance once the Chair has ruled on a question.

## 2022 Annual Security Report

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

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

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

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

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

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

### x) Recording Hearings

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

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

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

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

The Decision-maker will then prepare a written deliberation statement and deliver it to the Title IX Coordinator, detailing the determination, rationale, the evidence used in support of its determination, the evidence not relied upon in its determination, and credibility assessments.

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

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

**z) Notice of Outcome**

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

1. Identification of the allegations potentially constituting sexual harassment as defined by Policy JICK;
2. Identification of violation(s) covered by other Southeast Tech policies that were part of the hearing;
3. A description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
4. Findings on each alleged policy violation (findings of fact supporting the determination);
5. Conclusions regarding the application of the relevant policy to the facts at issue;
6. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility;
7. A statement of, any disciplinary sanctions Southeast Tech will impose on the Respondent;
8. A statement of, whether remedies designed to restore or preserve equal access to Southeast Tech's education program or activity will be provided by Southeast Tech

## 2022 Annual Security Report

to the Complainant (the details or specifics of the remedies are not shared with the Respondent unless the remedy directly relates to the Respondent);

9. Southeast Tech's procedures and permissible bases for the Complainant and Respondent to appeal;
10. Information on when the results are considered by Southeast Tech to be final.

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

## 2022 Annual Security Report

### 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



## 2022 Annual Security Report

### APPENDIX A: ADVISORS

#### Right to an Advisor

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

#### **1. Who Can Serve as an Advisor**

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

The parties may choose Advisors from inside or outside of Southeast Tech community. The Title IX

Coordinator will also offer to assign an Advisor for any party if the party so chooses. Southeast Tech cannot guarantee equal advisory rights, meaning that if one party selects an Advisor who is an attorney, but the other party does not or cannot afford an attorney, Southeast Tech is not obligated to provide an attorney.

#### **2. Advisor's Role**

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

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

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

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

## 2022 Annual Security Report

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

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

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

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

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

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

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

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

Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not

## 2022 Annual Security Report

explicitly authorized by Southeast Tech. Southeast Tech may seek to restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by Southeast Tech's privacy expectations.

### 5. Expectations of an Advisor

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

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

### 6. Expectations of the Parties with Respect to Advisors

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

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

## **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

## 2022 Annual Security Report

- 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.

## 2022 Annual Security Report

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

### **b. Employee Disciplinary Sanctions**

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

- *Warning – Verbal or Written*
- *Performance Improvement Plan*
- *Enhanced supervision, observation, or review*
- *Required Counseling*
- *Required Training or Education*
- *Probation*
- *Denial of Pay Increase/Pay Grade*
- *Loss of Oversight or Supervisory Responsibility*
- *Demotion*
- *Transfer*
- *Reassignment*
- *Assignment to new supervisor*
- *Restriction of stipends, research, and/or professional development resources*
- *Suspension with pay*
- *Suspension without pay*
- *Termination*
- *Other Actions*: In addition to or in place of the above disciplinary sanctions, Southeast Tech may assign any other disciplinary sanctions as deemed appropriate.

## 2022 Annual Security Report

### **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.

## 2022 Annual Security Report

- 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.
- The right to receive a copy of the investigation report, including all factual, policy, and/or credibility analyses performed, and all relevant and directly related evidence available and used to produce the investigation report, subject to the privacy limitations imposed by state and federal law, prior to the hearing, and the right to have at least ten (10) days to review the report prior to the hearing.
- The right to respond to the investigation report, including comments providing any additional relevant evidence after the opportunity to review the investigation report, and to have that response on the record.
- The right to be informed of the names of all witnesses whose information will be used to make a finding, in advance of that finding, when relevant.
- The right to regular updates on the status of the investigation and/or resolution.
- The right to have reports of alleged Policy violations addressed by Investigators, Title IX Coordinators, and Decisionmaker(s) who have received relevant training.
- The right to preservation of privacy, to the extent possible and permitted by law.
- The right to meetings, interviews, and/or hearings that are closed to the public.
- The right to petition that any Title IX Team member in the process be recused on the basis of disqualifying bias and/or conflict of interest.
- The right to have an Advisor of their choice to accompany and assist the party in all meetings and/or interviews associated with the resolution process.
- The right to the use of the appropriate standard of evidence, preponderance of the evidence, to make a finding after an objective evaluation of all relevant evidence.
- The right to be present, including presence via remote technology, during all testimony given and evidence presented during any formal resolution hearing.

## 2022 Annual Security Report

- The right to be promptly informed in a written Notice of Outcome letter of the finding(s) and disciplinary sanction(s) of the resolution process and a detailed rationale of the decision, delivered simultaneously (without undue delay) to the parties.
- The right to be informed in writing of when a decision by Southeast Tech is considered final and any changes to the disciplinary sanction(s) that occur before the decision is finalized.
- The right to be informed of the opportunity to appeal the finding(s) of the resolution process, and the procedures for doing so in accordance with the standards for appeal established by Southeast Tech.
- The right to a fundamentally fair resolution as defined in these procedures.



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

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

This dismissal decision is appealable by any party under the procedures for appeal in [Appendix E](#).

**1. Mandatory Dismissal**

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

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

**2. Discretionary Dismissal**

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

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

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

## 2022 Annual Security Report

### 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:

## 2022 Annual Security Report

- 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:

- a) The Request for Appeal is 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, and
- b) Any of the grounds in the Request for Appeal meet the Grounds for Appeal as stated above as determined by the Appeals Decision-maker.

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

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

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

### **3. Appeal**

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

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

Notification of the Appeal Outcome will be sent to all parties in writing including the decision on each ground and rationale for each decision. Notification will be made simultaneously and may be

## 2022 Annual Security Report

delivered in person, emailed to the parties' Southeast Tech-issued email, or mailed to the local or permanent address(es) of the parties as indicated in official Southeast Tech records. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The Appeal Outcome is final.

#### **4. Disciplinary sanctions Status During the Appeal**

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

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

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

#### **5. Appeal Considerations**

- Decisions on appeal are to be deferential to the original decision, making changes to the finding only when there is clear error and making changes to the disciplinary sanction(s)/responsive action(s) only if there is a compelling justification to do so.
- Appeals are not intended to provide for a full re-hearing (de novo) of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal.
- An appeal is not an opportunity for Appeal Decision-makers to substitute their judgment for that of the original Decision-maker(s) merely because they disagree with the finding and/or disciplinary sanction(s).
- The Appeal Decision-maker may consult with the Title IX Coordinator on questions of procedure or rationale, for clarification, if needed. Documentation of all such consultation will be maintained.
- Appeals granted based on new evidence should normally be remanded to the original Investigator and/or Decision-maker for reconsideration. Other appeals may be remanded at the discretion of the Title IX Coordinator or, in limited circumstances, decided on appeal.
- Once an appeal is decided, the outcome is final: further appeals are not permitted, even if a decision or disciplinary sanction is changed on remand (except in the case of a new hearing).
- In rare cases where a procedural or substantive error cannot be cured by the original Decision-maker (as in cases of bias), the appeal may order a new hearing with a new Decision-maker.
- The results of a new hearing can be appealed, once, on any of the three available appeal grounds.

## 2022 Annual Security Report

- In cases in which the appeal results in reinstatement to Southeast Tech or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

## **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**

## 2022 Annual Security Report

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.

## 2022 Annual Security Report

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**

The final result of an Informal Resolution process is not subject to appeal once all parties indicate their written assent to all agreed upon terms of the Informal Resolution in the Informal Resolution Agreement. When the parties cannot agree on all terms of the Informal Resolution, the Formal Resolution process will resume at the same point where it was paused.

### **7. Recordkeeping**

Records of the Informal Resolution will be maintained per the Preservation of Records/Recordkeeping section of this procedure, as applicable.



## 2022 Annual Security Report

ATIXA 2020 INTERIM MODEL SEXUAL HARASSMENT POLICIES AND PROCEDURES USE AND ADAPTATION OF THIS MODEL WITH CITATION TO ATIXA IS PERMITTED THROUGH A LIMITED LICENSE TO Southeast Tech

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Regulation		Board Action
Approved:	09.05.18	ST00331
Revised:	09.30.20	ST00495