

Policies and Regulations

NEPN Code: GBAA-R/STI

Personnel

Harassment

Definitions

1. **Harassment:** Harassment consists of physical or verbal conduct related to a person's race, color, religion, creed, ancestry, national origin, gender, sexual orientation, age, disability, protected military/veteran status, genetic information or other basis prohibited by law when the conduct is severe, pervasive, and objectively offensive and:
 - a. has the purpose of effecting or creating an intimidating, hostile, or offensive working environment; or
 - b. has the purpose or effect of substantially or unreasonably interfering with an individual's work performance which deprives the staff member access to employment opportunities or benefits provided by Southeast Technical College.
2. **Sexual Harassment:** Sexual harassment is any unwelcome sexual advance(s), request(s) for sexual favors and /or other verbal, physical, and/or visual contact(s) of a sexual nature, or communication of a sexual nature when:
 - a. submission to such conduct or communication is made, either explicitly or implicitly, a term of a person's employment; or
 - b. submission to or rejection of such conduct or communication by an individual is used as the basis for employment decisions affecting the individual; or
 - c. such conduct or communication has the purpose or effect of interfering with an individual's work, creating an intimidating, hostile, or offensive working environment; or
 - d. such conduct is so severe or pervasive, and objectively offensive that it has the purpose or effect of depriving the employee access to employment opportunities or benefits provided by STC.

Sexual harassment may include but is not limited to:

- a. unwelcome verbal harassment or abuse based upon gender;

- b. unwelcome pressure for sexual activity;
- c. unwelcome, gender-motivated, or inappropriate patting, pinching, or physical contact;
- d. unwelcome behavior or words, based upon gender, including demands for sexual favors, accompanied by implied or overt threats concerning the individual's employment status;
- e. unwelcome behavior or words, based upon gender, including demands for sexual favors, accompanied by implied or overt promises of preferential treatment with regard to an individual's employment status.

Reporting Incidents of Harassment - Grievance Procedures

Any STC personnel who believes he or she has been the victim of harassment as defined above by a student or an employee of STC shall report the alleged acts immediately to an STC staff member, STC administrator, STC's Human Resource Specialist or STC's Vice President of Student Affairs. A form for reporting harassment is available from STC's Human Resource Department.

1. **Designated Personnel.** STC hereby designates STC's Vice President of Student Affairs as the institute's Human Rights Officer to address reports or complaints of harassment. Any STC administrator is designated by STC to receive reports of harassment. . Upon receipt of a report of harassment, the administrator shall immediately notify and forward the report to the STC Human Rights Officer. Failure to forward any harassment report or complaint may result in disciplinary action. If the complaint involves the Human Rights Officer, the complaint shall be filed directly with the President.
2. **Submission of a complaint or report of harassment.** Submission of a complaint or report of harassment will not affect the individual's employment or work assignments.
3. **Confidentiality.** STC will make efforts to respect the confidentiality of the complaining employee and the individual(s) against whom the complaint is asserted to the extent possible consistent with the STC's obligations to investigate allegations of harassment and take disciplinary action, if appropriate.
4. **Procedure.** The complaining employee will be asked complete and sign a statement setting forth the facts surrounding the conduct that includes: the complaining employee's name; date of the incident(s); type of harassment; description of the incident(s); name of any witnesses; what action, if any, has been taken.
5. **Required Reporting.** If the accusations include possible criminal activity, the Human Rights Officer shall comply with all applicable laws.

Investigation

Upon receipt of a written report alleging harassment, the Human Rights Officer shall immediately authorize an investigation. This investigation may be conducted by the Human Rights Officer, other STC officials or by a third party designated by STC. The investigating party shall provide a written report of the status of the investigation within fifteen (15) calendar days to the Human Rights Officer or the President.

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

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

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

STC Action

1. If the allegations following an investigation are found to constitute a violation of STC's Harassment Policy (GBAA/STI), STC will take appropriate action.
2. The results of the investigation of each complaint will be reported in writing and kept on file in the office of the Human Rights Officer. The report shall include findings of the investigation and will document the disciplinary action taken, if any, as a result of the complaint. STC recognizes that not every uncomfortable situation constitutes harassment. Whether a particular action or incident is a personal, social relationship without a discriminatory work effect requires a determination based on all the facts and surrounding circumstances.
3. The complaining employee will be advised of STC's decision in writing.
4. If either party is not satisfied with the written decision rendered by the Human Rights Officer, he/she may appeal the decision in writing to the President within ten (10) calendar days following receipt of the Human Rights Officer's decision. The appeal must include the original complaint form, a copy of the written decision, and a written statement as to the reason for appeal.
5. The President will review the material submitted and respond in writing within fifteen (15) calendar days of the appeal with a determination to uphold, modify, or reverse the decision of the Human Rights Officer. At the President's discretion, an additional

investigation may be conducted, including interviews with the complaining employee, the individual(s) against whom the complaint is filed, and others who may have knowledge of the alleged incident(s) or circumstances giving rise to the complaint. The appeal may also include any other methods or documents deemed pertinent by the President.

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

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

Prohibition against Retaliation

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

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

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

Discipline

Any action taken pursuant to this policy will be consistent with requirements of applicable STC policies and/or negotiated agreements. STC will take such disciplinary action it deems necessary and appropriate, including but not limited to, warning, suspension, or immediate discharge to end harassment and prevent its recurrence.

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

Legal References: Title VI and VII of the Civil Rights Act of 1964
Title IX of the Education Amendments of 1972
South Dakota Executive Order 81-08
Title II of the Americans with Disabilities Act of 1990
Section 504 of the Rehabilitation Act of 1973
Age Discrimination Act of 1975
Uniform Services Employment and Reemployment Rights Act
Genetic Information Non-discrimination Act
Americans With Disabilities Act and Amendment Act
SDCL Ch. 20-13 South Dakota Human Relation Act of 1972

RELATED POLICIES

AC/STI – AC-R/STI – Equal Opportunity/Nondiscrimination
JIAA/STI – JIAA-R/STI – Harassment (Student)
KEB/STI – KEB-R/STI – Public Concerns and Complaints about Personnel

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