



Southeastern Community College

**EQUAL OPPORTUNITY, HARASSMENT, AND NONDISCRIMINATION POLICY
FOR ALL STUDENTS, EMPLOYEES AND THIRD-PARTIES**

POLICY AND PROCEDURES

I. Rationale for Policy and Applicable Scope

Southeastern Community College adheres to all federal, state, and local civil rights laws prohibiting discrimination in employment and education. The College does not discriminate in its admissions practices, in its employment practices, or in its educational programs or activities on the basis of sex, race, color, age, national origin, disability, genetics (employment specific), religion, gender identity, sexual orientation, creed, or any other characteristic protected by law.

As a recipient of federal financial assistance for education programs and activities, Southeastern Community College is required by Title IX of the Education Amendments of 1972 to ensure that all of its education programs and activities do not discriminate on the basis of sex/gender. Sex includes sex, sex stereotypes, gender identity, gender expression, sexual orientation, and pregnancy.

Southeastern Community College also prohibits retaliation against any person opposing discrimination, harassment, or participating in any investigation or complaint process internal or external to the institution.

Consistent with the principles stated above, Southeastern Community College has developed internal policies and procedures that provide prompt, fair, and impartial processes for those involved in allegations of discrimination or harassment on the basis of protected class status, and for allegations of retaliation. Southeastern Community College 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.

Through this Policy the College intends to:

- Educate all constituencies about what constitutes discriminatory harassment and discrimination, including sexual harassment under Title IX in 34 CFR Part 106.3, other federal anti-discrimination law, and state law;
- Inform faculty, staff and students of this Policy and the procedures for reporting and resolving discriminatory harassment and discrimination within the College;
- Educate faculty, staff and students about their responsibilities, the laws, and potential sanctions when discriminatory harassment or discrimination occurs; and
- Inform faculty, staff and students of the supportive measures available when a complaint of discriminatory harassment or discrimination is made.

II. Glossary

- *Complainant* means an individual who is alleged to be the victim of conduct that could constitute harassment or discrimination based on a protected class as prohibited by this Policy; or retaliation for engaging in a protected activity.
- *Confidential Resource* means an employee, person, or entity who by a legal privilege, professional obligation, or otherwise must maintain confidence of communications, including reports or notice of harassment, discrimination, and/or retaliation (irrespective of Clery Act Campus Security Authority status).
- *Day* means a business day when the Southeastern Community College is in normal operation.

- *Final Determination*: A conclusion by the preponderance of the evidence standard of proof that the alleged conduct did or did not violate policy.
- *Finding*: A conclusion by the preponderance of the evidence standard of proof that the conduct did or did not occur as alleged (as in a “finding of fact”).
- *Formal Grievance Process* means “Process A,” a method of formal resolution designated by the Southeastern Community College to address conduct that falls within the scope of Title IX, and which complies with the requirements of the Title IX regulations (34 CFR §106.45).
- *Investigator* means the person or persons charged by Southeastern Community College 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.
- *Official with Authority (OWA)* means an employee of the Southeastern Community College explicitly vested with the responsibility to implement corrective measures for harassment, discrimination, and/or retaliation on behalf of the Southeastern Community College.
- *Parties* include the Complainant(s) and Respondent(s), collectively.
- *Process A* means the Formal Grievance Process for qualifying allegations of sexual harassment under Title IX (including sexual assault, dating violence, domestic violence, and stalking) involving students, staff, administrators, or faculty members which fall within the College’s educational programs or activities.
- *Process B* means the resolution procedures for offenses that fall under policies on protected class harassment or discrimination. Process B can also apply to sexual harassment (including sexual assault, dating violence, domestic violence, and stalking,) when jurisdiction does not fall within Process A, of which parties will receive notice from the Title IX Coordinator.
- *Respondent* means an individual who has been reported to be the perpetrator of conduct that could constitute harassment or discrimination based on a protected class under this Policy; or retaliation for engaging in a protected activity.
- *Sanction* means a consequence imposed by Southeastern Community College on a Respondent who is found to have violated this policy.
- *Title IX Coordinator* is the official designated by Southeastern Community College to ensure compliance with Title IX regulations and the College’s Title IX program. References to the Coordinator throughout this policy may also encompass a designee of the Coordinator for specific tasks.

III. Role of the Title IX Coordinator

Dave Haden serves as the Title IX Coordinator and oversees any Deputy Title IX Coordinators and the implementation of Southeastern Community College’s Policy on Equal Opportunity, Harassment, and Nondiscrimination, as well as resulting plans. The Title IX Coordinator has the primary responsibility for coordinating the College’s efforts related to the intake, investigation, resolution, and implementation of

supportive measures to stop, remediate, and prevent discrimination, harassment, and retaliation prohibited under this policy.

Independence and Conflict-of-Interest

The Title IX Coordinator acts with independence and authority free from bias and conflicts of interest. Concerns of bias, potential conflict of interest, misconduct or discrimination by any person involved in a complaint or adjudication process should be raised with the Title IX Coordinator. To address any concern involving bias, conflict of interest, misconduct or discrimination by the Title IX Coordinator, contact the Southeastern Community College President.

IV. Contact Information

Complaints or notice of alleged policy violations, or inquiries about or concerns regarding this policy and procedures, may be made to:

Title IX Coordinator: Dave Haden
Dean of Students
Student Affairs Office – WB109M
319-208-5101
dhaden@scciowa.edu

Deputy Title IX Coordinator: Kari Bevans
Director of Keokuk Campus, Admissions, and
Testing
115 Admissions and Student Support Center
319-313-1928
kbevans@scciowa.edu

Deputy Title IX Coordinator: Melissa Flores
Student Activities Director
WB356
319-208-5021
mflores@scciowa.edu

Deputy Title IX Coordinator: Laurie Hempen
Director of Human Resources
WB114
lhempen@scciowa.edu

Deputy Title IX Coordinator: Dennis Marino
Registrar
Student Support Center – EN2
dmarino@scciowa.edu

Inquiries regarding Title IX policy 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
Web: <http://www.ed.gov/ocr>

V. Applicable Scope and Jurisdiction

General Scope: The core purpose of this Policy is the prohibition of all forms of discrimination and discriminatory harassment as defined herein. Members of the Southeastern Community College community, guests and visitors have the right to be free from discrimination, discriminatory harassment, and retaliation. All members of the community are expected to conduct themselves in a manner that does not infringe upon the rights of others.

This Policy covers conduct that occurs at all College sponsored programs and activities, as well as conduct that occurs on the campus or on property owned or controlled by the College. The Policy can also cover prohibited conduct that initially occurs off-campus when students or employees experience continuing effects of the off-campus acts in the educational or work setting that effectively deprive them of access to the College's educational program. The Policy covers conduct perpetrated by faculty, staff, students, and third parties.

Scope under Title IX for Sexual Harassment: The College's scope under Title IX is limited to locations, events, or circumstances over which it substantially controls both the Respondent and the context in which the alleged harassment occurs, as well as any building owned or controlled by a student organization that is officially recognized by the College, such as a fraternity or sorority. The College's scope under Title IX is also limited to conduct against a person that occurs in the United States.

Any person may file a complaint alleging a violation of this Policy. If a report or complaint falls under the College's scope under Title IX, the College will utilize Process A to respond and will not proceed under any other College policy or procedure if doing so would interfere with any right or privilege provided to a party under Title IX. If the College determines that a report or complaint does not fall under the College's scope under Title IX, but nonetheless falls under this Policy and/or its general scope, the College may still take action for such alleged conduct, including under Process "B" of this Policy.

VI. Definitions of Prohibited Conduct

A. Discrimination

As described in Southeastern Community College's Annual Statement of Nondiscrimination (accessible online at [annual-nondiscrimination-statement.pdf \(scciowa.edu\)](http://annual-nondiscrimination-statement.pdf(scciowa.edu))) it has been, and shall continue to be, the policy of Southeastern Community College not to discriminate on the basis of race, creed, color, sexual orientation, gender identity, national origin, sex, disability, religion, age, or any other characteristic protected by law, in its programs, activities, or employment practices as required by the Iowa Code sections 216.9 and 256.10(2), Titles VI and VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000d and 2000e), the Equal Pay Act of 1973 (29 U.S.C. § 206, et seq.), Title IX (Educational Amendments, 20 U.S.C. §§ 1681 --- 1688), Section 504 (Rehabilitation Act of 1973, 29 U.S.C. § 794), and the Americans with Disabilities Act (42 U.S.C. § 12101, et seq.).

Any member of the College community whose acts deny, deprive, or limit the educational or employment access, benefits, and/or opportunities of any member of the Southeastern Community College community, guest, or visitor on the basis of that person's actual or perceived membership in the protected classes listed above is in violation of the College policy on nondiscrimination.

The College is an Equal Employment Opportunity (EEO) employer. All aspects of the employment relationship are covered by this policy and those found in the Employee and Faculty Handbooks, and all employees and applicants are protected from unlawful discrimination in recruiting, hiring, placement, training, evaluation, job assignments, pay, benefits, promotions, termination, layoffs, recall, transfer, leave of absence, compensation, or discharge.

When brought to the attention of the College, any such discrimination will be promptly and fairly addressed and remedied according to the appropriate resolution process described elsewhere in this Policy.

B. Discriminatory Harassment (non-Title IX)

Students and employees are entitled to an employment and educational environment that is free of discriminatory harassment. Southeastern Community College's harassment policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane, but controversial or sensitive, subject matters protected by academic freedom.

Discriminatory harassment is defined as unwelcome conduct on the basis of actual or perceived membership in a class protected by policy or law, and which creates a "hostile environment." The College does not tolerate discriminatory harassment of any employee, student, visitor, or guest.

A hostile environment is one that unreasonably interferes with, limits, or effectively denies an individual's educational or employment access, benefits, or opportunities. This discriminatory effect results from harassing verbal, written, graphic, or physical conduct that is severe **or** pervasive **and** objectively offensive.

When discriminatory harassment rises to the level of creating a hostile environment, the College may also impose sanctions on the Respondent through application of the appropriate resolution process below. The College also reserves the right to address offensive conduct and/or harassment that 1) does not rise to the level of creating a hostile environment, or 2) that is of a generic nature and not based on a protected status. Addressing such conduct may not result in the imposition of discipline under the College's policy, but may be addressed through respectful conversation, remedial actions, education, effective alternate resolution, and/or other informal resolution mechanisms.

C. Sexual Harassment (Title IX)

Prohibited 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.

Sexual Harassment, as an umbrella category, includes the offenses below:

1. Conduct on the basis of sex that satisfies one or more of the following:
 - a. Quid Pro Quo: An employee of Southeastern Community College conditions the provision of an aid, benefit, or service upon an individual's participation in unwelcome sexual conduct;
 - b. Hostile Environment: Unwelcome conduct on the basis of sex that is so **severe, pervasive and objectively offensive** that it effectively denies a person equal access to the College's education program or activity, including work;

2. **Sexual Assault¹:** One of the following offenses in which one has or attempts to have sexual contact or sexual penetration with another individual without their consent:
 - i. **Rape:** the 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 consent of the victim;
 - ii. **Fondling:** the touching of the private body parts of another person for the purpose of sexual gratification without consent of the victim;
 - iii. **Incest:** sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law; or
 - iv. **Statutory rape:** sexual intercourse with a person who is under the statutory age of consent.
3. **Dating Violence²:** Violence committed by a person who has been in a romantic or intimate relationship with another. The existence of such a relationship shall be determined based on the reporting party'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.
4. **Domestic Violence³:** Felony or misdemeanor crime of violence committed by:

¹ The State of Iowa uses the term "Sexual Abuse":

Any sex act between persons is sexual abuse by either of the persons when the act is performed with the other person in any of the following circumstances:

1. The act is done by force or against the will of the other. If the consent or acquiescence of the other is procured by threats of violence toward any person or if the act is done while the other is under the influence of a drug inducing sleep or is otherwise in a state of unconsciousness, the act is done against the will of the other.
2. Such other person is suffering from a mental defect or incapacity which precludes giving consent, or lacks the mental capacity to know the right and wrong of conduct in sexual matters.
3. Such other person is a child.

Iowa Code § 709.1. "Sex act" is defined under Iowa Code § 702.17 as: "any sexual contact between two or more persons by any of the following: 1. Penetration of the penis into the vagina or anus; 2. Contact between the mouth and genitalia or by contact between the genitalia of one person and the genitalia or anus of another person; 3. Contact between the finger or hand of one person and the genitalia or anus of another person, except in the course of examination or treatment by a person licensed pursuant to chapter 148, 148C, 151, or 152; 4. Ejaculation onto the person of another; 5. By use of artificial sexual organs or substitutes therefor in contact with the genitalia or anus."

² Iowa Code does not provide a per se definition for "Dating Violence." The College's definition of "Dating Violence" is consistent with the Clery Act regulations for reporting offenses.

³ Iowa Code defines "domestic abuse" under Iowa Code § 236.2 as an assault (which is defined in §708.2A of the Iowa Code as an intentional or unauthorized act that is intended to cause pain to another or result in physical contact that is insulting or offensive, coupled with the apparent ability to do the act or to place another in fear of any such act, or the intentional and authorized pointing of a firearm or display of a dangerous weapon in a threatening manner) when the assault is between:

- a. Family or household members who resided together at the time of the assault;
- b. Separated spouses or persons divorced from each other and not residing together at the time of the assault.
- c. Persons who are parents of the same minor child, regardless of whether they have been married or have lived together at any time.
- d. Persons who have been family or household members residing together within the past year and not residing together at the time of the assault; or
- e. Persons who are in an intimate relationship or have been in an intimate relationship and have had contact within the past year of the assault.

- i. Current or former spouse or intimate partner of the victim;
 - ii. Person with whom the victim shares a child in common;
 - iii. Person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
 - iv. Person similarly situated to a spouse of the victim under the laws of the State of Iowa or the jurisdiction in which the incident reported occurred; and
 - v. Any other person against an adult or youth victim who is protected from that person's act under the laws of the State of Iowa.
- a. **Stalking⁴:** Engaging in a course of conduct toward another person under circumstances that would reasonably cause a person to fear bodily injury to themselves or others or to experience substantial emotional distress.

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

Consent: Effective consent is informed, freely and actively given, mutually understandable words or actions which indicate a willingness/permission to engage in sexual activity, and specific sexual conduct. 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.

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

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 as soon as possible.

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.

Consent is not effective if a party is incapacitated, or it results from the use of fraud, force, threats, intimidation, or coercion.

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

⁴ Under Iowa Code § 708.11, "stalking" occurs when:

- a. The person purposefully engages in a course of conduct directed at a specific person that would cause a reasonable person to fear bodily injury to, or the death of, that specific person or a member of the specific person's immediate family.
- b. The person has knowledge or should have knowledge that the specific person will be placed in reasonable fear of bodily injury to, or the death of, that specific person or a member of the specific person's immediate family by the course of conduct.
- c. The person's course of conduct induces fear in the specific person of bodily injury to, or the death of, the specific person or a member of the specific person's immediate family.

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.

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.

Incapacitation: 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 can result from the use of alcohol or other controlled substances, or from mental or physical incapacity. Incapacitation is determined through consideration of all relevant indicators of an individual’s state and is not synonymous with intoxication, impairment, and/or being drunk.

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

D. Other Prohibited Offenses

In addition to the forms of discriminatory and sexual harassment described above, Southeastern Community College additionally prohibits the following offenses as forms of discrimination/harassment when the act is based upon the Complainant’s actual or perceived membership in a protected class. In this section, the definition of “consent” is the same as defined above.

1. **Sexual Exploitation, defined as:** taking non-consensual or abusive sexual advantage of another for one’s own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that conduct does not otherwise constitute sexual harassment under this Policy. Examples of Sexual Exploitation include, but are not limited to:
 - a. Sexual voyeurism (such as viewing another person’s sexual activity, intimate body parts, or nakedness in a place where that person would have a reasonable expectation of privacy, without that person’s consent);
 - b. Invasion of sexual privacy;
 - c. Prostituting another person;
 - d. Recording images (e.g., video, photograph) or audio of another person’s sexual activity, intimate body parts, or nakedness without that person’s consent;
 - e. Distributing images (e.g., video, photograph) or audio of another person’s sexual activity, intimate body parts, or nakedness, if the individual distributing the images or audio knows or should have known that the person depicted in the images or audio did not consent to such disclosure and objects to such disclosure, including the making or posting of revenge pornography;
 - f. knowingly transmitting a sexually transmitted disease (STD) or infection (STI) or human immunodeficiency virus (HIV) to another individual without informing the other person of the infection;
 - g. exposing one’s genitals to another when the exposing individual knows or should have known that the other person did not consent to such exposure and objects to

such exposure; causing another to expose genitals without that person's effective consent;

- h. Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity;
 - i. Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections;
 - j. Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity;
 - k. Knowingly soliciting a minor for sexual activity;
 - l. Engaging in sex trafficking;
 - m. Creation, possession, or dissemination of child pornography.
2. Threatening or causing physical harm, extreme verbal, emotional, or psychological abuse, or other conduct which threatens or endangers the health or safety of any person;
 3. Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another;
 4. Hazing, defined as acts likely to cause physical or psychological harm or social ostracism to any person within the College community, when related to the admission, initiation, pledging, joining, or any other group-affiliation activity; or
 5. Bullying, defined as repeated and/or severe aggressive behavior, likely to intimidate or intentionally hurt, control, or diminish another person, physically and/or mentally, that is not speech or conduct otherwise protected by the First Amendment.

Violation of any other Southeastern Community College policies may constitute prohibited conduct herein when a violation is motivated by actual or perceived membership in a protected class, and the result is a discriminatory limitation or denial of employment or educational access, benefits, or opportunities.

E. Retaliation

Retaliation occurs when an individual harasses or intimidates another person because of that other person filed a complaint, participated in the resolution process of a violation of this Policy, supported a Complainant or Respondent, and/or acted in good faith to oppose conduct that constitutes a violation of this Policy. Harassment or intimidation includes but is not limited to threats or actual violence against the person or the person's property, adverse educational or employment consequences, ridicule, taunting, bullying or ostracism. Retaliation is prohibited under this Policy and is expressly prohibited by Title VII, Title IX and other state and federal laws.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a resolution 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.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. The College is prepared to take appropriate steps to protect individuals who fear that they may be subjected to retaliation.

VII. Steps to Take Immediately Following Sexual and/or Physical Violence

It is extremely important for you to seek help immediately by doing the following:

- (1) Get to a safe place, and call police or 911.
- (2) If desired, an advocate, friend, or family member may take you to the hospital for a voluntary medical exam and make a report and advise you of resources and options. For those who experience sexual violence, a Sexual Assault Nurse Examiner (a specially trained nurse) may be able to assist. Medical centers in the area include:

Southeast Iowa Regional Medical Center
(West Burlington) General Switchboard:
319-768-1000
Emergency Department: 319-768-4700

Please be aware that hospital personnel may be obligated to contact proper authorities sexual and/or physical violence are highly encouraged to take advantage of victim's services to help understand options for off-campus proceedings and receive counseling.

- (3) Preserve evidence by taking the following actions:
 - a. Seek forensic medical assistance at the local hospital, ideally within 120 hours of the incident (sooner is better).
 - b. Avoid showering, bathing, washing hands or face, or douching, if possible, but evidence may still be collected even if you do.
 - c. Try not to urinate.
 - d. If oral sexual contact took place, refrain from smoking, eating, drinking, or brushing teeth.
 - e. If clothes are changed, place soiled clothes in a paper bag (plastic destroys evidence).
 - f. Seeking medical treatment can be essential even if it is not for the purposes of collecting forensic evidence.

If a report or notification is made to the College, a list of resources for counseling, emergency/safety/security, health, legal assistance, mental health, student financial aid, Title IX Coordinator, victim advocacy, visa and immigration assistance for students and employees will be provided.

VIII. Reporting a Violation of this Policy

A. Confidential Resources

Confidential resources generally must maintain confidentiality when acting under the scope of their licensure, professional ethics, and/or professional credentials. Confidential reporting options include:

- On-campus licensed professional counselors
- On-campus health service providers
- Off-campus (non-employees):
 - Licensed professional counselors and other medical providers
 - Local rape crisis counselors
 - Domestic violence resources
 - Local or state assistance agencies
 - Clergy/Chaplains
 - Attorneys

Confidential Reporting options in the College's area are:

Rape Victim Advocacy Program (RVAP) RVAP
Crisis Line: 1-800-228-1625

Iowa Sexual Abuse Hotline:
Crisis Line: 800-284-7821

Domestic Violence Intervention Program:
Crisis Line: 1-800-373-1043

YWCA Domestic Violence Shelter & Sexual Assault Prog.
Local Crisis Line: 319-753-6734
Crisis Line: 800-373-1043

The Employee Assistance Program are available to help free of charge and may be consulted on an emergency basis during normal business hours.

It must be noted that sharing an incident only with a confidential resource does not constitute making an official report. The College may not be able to investigate or follow up unless or until the incident is reported to the Title IX Coordinator or a mandated reporter, or when law enforcement informs the College about a report.

B. Official College Reporting Options

If a complainant wishes the College to be notified about and/or resolve an incident of harassment, discrimination and/or retaliation, they should report as promptly as possible to the Title IX Coordinator or other College Official With Authority (OWA):

1. Reports to the Title IX Coordinator

Title IX Coordinator: Dave Haden
Dean of Students
Student Affairs Office – WB109M
319-208-5101
dhaden@scciowa.edu

A report to the Title IX Coordinator may be made at any time (including during non-business hours), by using the telephone number or email address. Reports may also be made in person during business hours or directly through the following address:
https://cm.maxient.com/reportingform.php?SoutheasternCCIA&layout_id=0.

2. Reports to College OWAs

An individual who is subjected to conduct covered by this Policy is encouraged to make an official college report directly to the Title IX Coordinator, but may also report to a College Official with Authority, or OWAs. At Southeastern Community College, the OWAs are:

Michael Ash, President
319-208-5051
mash@scciowa.edu

Janet Shepherd, Vice President of Academics
319-208-5044
jshepherd@scciowa.edu

Michelle Allmendinger, Vice President of Student Affairs
319-208-5049
mallmendinger@scciowa.edu

Chuck Chrisman, Vice President of Technology Services
319-208-5070
cchrisman@scciowa.edu

Cory Gall, Vice President of Administrative Services
319-208-5069
cgall@scciowa.edu

A report to an OWA is expected to be transferred immediately to the Title IX Coordinator.

3. Report to Other, Non-Confidential College Employees

At Southeastern Community College, all employees (including student employees) are expected to report instances of alleged discrimination and harassment, including sexual harassment, to the Title IX Coordinator or an OWA, unless the employee is a confidential reporting option. When a complainant tells a College employee, other than the Title IX Coordinator, about an incident involving conduct covered by this Policy, the individual should not expect confidentiality in that communication. Likewise, any College employee is expected to promptly share with the Title IX Coordinator all known details of a report made to them concerning conduct covered by this Policy. College employees are not to investigate and are not required to obtain proof of any actual Policy violation.

For these reasons, Complainants may want to carefully consider whether they share personally identifiable details with non-confidential College employees. To the extent possible, information reported to any College employee will be shared only with officials with authority responsible for handling the College's response to the report. College employees expected to report who knowingly condone, fail to report, or fail to take action to remedy incidents of discrimination, harassment, and/or retaliation is a violation of College policy may themselves be subject to sanctions and/or disciplinary action, up to and including termination.

4. Important Considerations for College Reporting

a. 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 Southeastern Community College's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible.

b. Requests for Confidentiality and/or When a Complainant Does Not Wish to Proceed

If a complainant does not want their name to be shared, does not want an investigation to take place, or does not want a formal complaint to be pursued, the request for confidentiality should be made to the Title IX Coordinator, either by the complainant or by a College employee who receives the report. The Title IX Coordinator will weigh the request for confidentiality/no formal action against the College's obligation to provide a safe, non-discriminatory environment for all students and employees, including the complainant. In conducting this analysis, the Title IX Coordinator will weigh the complainant's request and preferences against factors such as: the seriousness of the alleged misconduct; the complainants' age; whether there have been other complaints against the accused that increase the risk of the campus community; whether the alleged incident involved threatened future sexual violence or use of force or a weapon; whether an incident involved multiple respondents; whether an incident involved alcohol, drugs, or any date rape drug; whether the school has other methods for obtaining relevant evidence (i.e., security cameras or physical evidence); and, when the matter is under the scope of Title IX, to what extent non-participation by the Complainant may impact the availability of evidence and the College's ability to pursue a Formal Grievance Process fairly and effectively.

Based on this assessment, the College may decide not to honor the complainant's desire for confidentiality, and investigate and adjudicate a violation of this Policy, when doing so is not clearly unreasonable. If so, the Title IX Coordinator may sign a formal complaint to initiate a resolution process. The Title IX Coordinator will not become the Complainant. Southeastern Community College will not be able to ensure the complainant's confidentiality, but will still offer and provide supportive measures.

In cases in which the Complainant requests confidentiality/no formal action and the circumstances allow the College to honor that request, the College will offer informal resolution options (see below), supportive measures, and remedies 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 complaint at a later date. Upon making a complaint, a Complainant has the

right, and can expect, to have allegations taken seriously by the College, and to have the incidents investigated and properly resolved through these procedures.

c. Limited Amnesty for Reporting for Complainants and Witnesses

The Southeastern Community College community encourages the reporting of policy violations. Sometimes, Complainants or witnesses are hesitant to report to College 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 College community that Complainants choose to report misconduct to College 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, Southeastern Community College maintains a policy 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.

d. False Allegations and Evidence

Deliberately false and/or malicious accusations under this Policy, as opposed to allegations which, even if erroneous, are made in good faith, are a serious offense and will be subject to appropriate disciplinary action.

Additionally, witnesses and parties knowingly providing false evidence, tampering with or destroying evidence after being directed to preserve such evidence, or deliberately misleading an official conducting an investigation can be subject to discipline under College policy.

e. Federal Notification and Statistical Reporting Obligations

Federal law requires the College to publish an annual report of certain crimes that fall within the scope of this Policy that have occurred and their general location (on or off campus or in the surrounding area; no addresses are given). These reports contain statistical information only. All personally identifiable information is kept confidential.

This law, the Clery Act, also requires institutions to issue timely warnings to the campus community about crimes that have already occurred but may continue to pose a serious or ongoing threat to students and employees. Timely warnings are only required for Clery-reportable crimes that occur on Clery-defined geography, although Southeastern Community College reserves the right to issue appropriate warnings regarding other criminal activity that may pose a serious threat as well. The College will make every effort to 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 danger.

C. Law Enforcement

Along with the on-campus reporting options described above, Southeastern Community College strongly encourages a complainant to make a report to local law enforcement and to speak with a rape crisis or other counselor, on or off campus, to the extent alleged discrimination or harassment constitutes a crime. **Although reporting to law enforcement is strongly encouraged, at no time will any individual be forced to make a report to law enforcement as a precondition to using the internal reporting/resolution processes described in this Policy.** The Title IX Coordinator, deputy coordinators, OWAs, and off-campus victim advocates can assist in notifying law enforcement, if a complainant chooses.

Law enforcement in the vicinity of the College can be contacted as follows:

West Burlington Police Department
911
Non-Emergency Phone: (319) 754-8555

Keokuk Police Department
911
Non-Emergency Phone: (319) 524-5131

IX. What to Expect After an Official Report is Made

A. Privacy

Every effort is made by the College to preserve the privacy of reports. The College will not share the identity of any individual who has made a report or complaint of harassment, discrimination, or retaliation; any Complainant, any Respondent, or any witness, except as permitted by the Family Educational Rights and Privacy Act (FERPA), 20 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.

Southeastern Community College reserves the right to designate which College 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, Hearing Panel members/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.

The College 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.

B. Supportive Measures

The College will offer and implement appropriate and reasonable supportive measures to the parties upon receiving a report of alleged harassment, discrimination, and/or retaliation.

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties to restore or preserve access to the College's education program or activity, including measures designed to protect the safety of all parties or the educational environment, and/or deter harassment, discrimination, and/or retaliation.

In most instances, both the complainant and the respondent will be instructed to mutually avoid all contact with the other. Such a directive serves as notice to both parties that they must not have verbal, electronic, written, or third-party communication with one another. If these instructions are not heeded, disciplinary action may be taken. In addition, a party may seek an order of protection, "no-contact" order, restraining order, or similar order issued by a criminal, civil, or tribal court.

If an individual obtains an order of protection from a court in Iowa, the Title IX Coordinator should receive a copy to be aware of any limitations or restrictions and to develop a plan to abide by the court order. The College cannot enforce a violation of a court order, but can assist an individual in contacting law enforcement to report a violation. If any terms of a court order are unclear in their application to the campus environment, it is up to the parties to seek clarification through the court – the College cannot render a legal opinion or give advice other than to develop a plan to reasonably prevent violations of the order.

Supportive measures for the complainant and/or respondent 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 community or community subgroup(s)
- Altering campus housing assignment(s)
- Altering work arrangements for employees or student-employees
- Safety planning
- Providing campus safety escorts
- Providing transportation accommodations
- Academic support, extensions of deadlines, or other course/program-related adjustments
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus

The Title IX Coordinator works with the Complainant to ensure that their wishes are taken into account with respect to the supportive measures that are planned and implemented. The College will generally initiate these measures only with the complainant's knowledge and consent, but the College reserves the right to take whatever measures are deemed necessary to protect the parties and/or the community. In cases where confidentiality is requested and feasible, to the extent it is reasonably possible, a complainant may still be provided requested support services such as a change in living or academic/work arrangements, and increased monitoring, supervision or security at locations and activities where the alleged misconduct or violence occurred.

The College will work with the parties or their advocates to identify what supportive measures are appropriate in the short term (e.g., during the pendency of an investigation or other school response), and will continue to work collaboratively throughout the College's process and as needed thereafter to assess whether the instituted measures are effective, and if not, what additional or different measures are available to keep the parties safe.

C. Interplay with Criminal Proceedings

As noted, some conduct covered by this Policy may constitute both a criminal violation and a violation of College policy. A person charged with a crime can be prosecuted under the Iowa Criminal Code and *separately* adjudicated by the College for any behavior that also constitutes a violation of this Policy. Even if the criminal justice authorities choose not to prosecute, a College disciplinary process may still apply.

A report or complaint for a violation of this Policy matter will be processed without waiting for any separate criminal investigations/proceedings to be conducted or completed. The College may briefly delay the start of its investigation for up to ten (10) days to allow an initial law enforcement investigation when a police report has been made, but absent compelling circumstances, a longer delay will not be allowed, absent compelling circumstances.

D. Time Frame

All allegations are acted upon promptly by the College once it has received a report or a formal complaint. In most cases complaints will take 60-90 business days to resolve. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, but the College will avoid undue delays within its control. If circumstances are such that the process will not be rendered in this time frame the complainant and respondent will be advised in writing about the reason for the delay and provided an estimated time frame for the conclusion of the process.

X. Formal and Informal Resolution/Grievance Processes

A. Initiating a Formal Complaint

When the College learns of potential discrimination or harassment, in most cases outreach will be done with the Complainant to identify reporting options (discussed earlier) within and outside the College and to offer supportive measures. The Title IX Coordinator is available to meet to discuss those reporting options with the Complainant or answer questions from the Respondent.

A Complainant who proceeds with a formal complaint must do so in writing, and by filing a complaint with the Title IX Coordinator by hard copy, email, or any other writing evidencing a physical or digital signature, or otherwise verifying the Complainant is filing the complaint. If the Title IX Coordinator signs a formal complaint, the Title IX Coordinator will not become a party or Complainant for purposes of the processes below.

B. Initial Assessment of Applicable Scope/Process

Upon receipt of any formal complaint of violation of this Policy, the Title IX Coordinator will promptly conduct an initial assessment to determine the next steps the College needs to take. The College will initiate at least one of three responses:

- 1) Provide the Complainant with assistance and support only, based on the Complainant's request that the College not take action, where that request is not clearly unreasonable;
- 2) Determine the circumstances satisfy the jurisdictional requirements of Title IX at 34 CFR 106.45 and resolve the complaint under informal or formal "Process A" resolution procedures; or
- 3) Determine the circumstances do not satisfy the jurisdictional requirements of Title IX at 34 CFR 106.45 and dismiss the complaint under Title IX, but resolve the complaint under informal or formal "Process B" resolution procedures, or other policies and procedures, as applicable.

Specifically, Process A procedures apply only to qualifying allegations of sexual harassment under Title IX (including sexual assault, dating violence, domestic violence, and stalking, as defined above) involving students, staff, administrators, or faculty members. If they do not, they must or may be "dismissed" as follows.

The College must dismiss a formal complaint or any allegations therein if, at any time during the investigation or hearing, it is determined that:

- 1) The alleged conduct would not constitute sexual harassment as defined in the Policy hereinabove, even if proven;
- 2) The College does not substantially control both the Respondent and the context in which the alleged harassment occurs, nor did it occur in any building owned or controlled by a student organization that is officially recognized by the College, such as a fraternity or sorority;
- 3) The alleged conduct did not occur against a person in the United States; and/or
- 4) At the time of filing a complaint, a complainant is not participating in or attempting to participate in the education program or activity of the College.

The College may dismiss a complaint or any allegations therein if, at any time during the investigation or hearing:

- 1) A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the complaint or any allegations therein; or
- 2) The Respondent is no longer enrolled in or employed by the College; or
- 3) Specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the complaint or allegations therein.

Upon any dismissal, the Title IX Coordinator 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 below. A Complainant who decides to withdraw a complaint may later request to reinstate it or refile it.

Dismissing a complaint under Title IX may be procedural, and does not limit the College's authority to address a complaint with an appropriate process and remedies. If the Title IX Coordinator determines that the misconduct alleged does not fall within the scope of Title IX, other policies may apply and the matter may be referred for resolution, including under Process B.

Process B applies to the resolution of offenses such as violations of policies on protected class harassment or discrimination above. Process B can also apply to sexual harassment (including sexual assault, dating violence, domestic violence, and stalking, as defined above) when jurisdiction does not fall within Process A, as specified by the Title IX Coordinator.

C. Interim Suspension or Administrative Leave

The College may make a non-disciplinary interim suspension of a student respondent on an emergency basis. Prior to suspending a student, the College will conduct an individualized safety and risk analysis and determine whether there is an immediate threat to the physical health or safety of any individual. Any student so suspended will be provided with notice and an opportunity to challenge this action immediately following the removal.

The College may, in its discretion and consistent with applicable policies, procedures, and/or agreements, place an employee respondent on administrative leave pending the outcome of a resolution process.

D. Process A: Grievance Process for Qualifying Allegations of Sexual Harassment Under Title IX

Process A procedures apply only to qualifying allegations of sexual harassment under Title IX (including sexual assault, dating violence, domestic violence, and stalking, as defined in this Policy) involving students, staff, administrator, or faculty members.

1. Right to an Advisor

The parties may each have an advisor of their choice, at their expense, present with them for all meetings and interviews within the resolution process, if they so choose. A party may elect to change advisors during the process and is not obligated to use the same advisor throughout.

Who Can Serve as an Advisor

The parties may select whoever they wish to serve as their Advisor. The advisor may be a friend, mentor, advocate, family member, attorney, or any other individual a party chooses to advise, support, and/or consult with them throughout the resolution process, and at their own expense. The parties may choose advisors from inside or outside of the College community.

For representation, Respondents may wish to contact organizations such as:

- FACE (<http://www.facecampusequality.org>)
- SAVE (<http://www.saveservices.org>).

Complainants may wish to contact organizations such as:

- The Victim Rights Law Center (<http://www.victimrights.org>),
- The National Center for Victims of Crime (<http://www.victimsofcrime.org>), which maintains the Crime Victim's Bar Association.]
- The Time's Up Legal Defense Fund: <https://nwlc.org/times-up-legal-defense-fund/>

Advisors in Hearings/College-Appointed Advisor

Under U.S. Department of Education regulations applicable to Title IX, cross-examination is required during the hearing, but must be conducted by the parties' advisors. The parties are not permitted to directly cross-examine each other or any witnesses. If a party does not have an advisor for a hearing, the College will appoint an advisor for the limited purpose of conducting any cross-examination.

A party may reject this appointment and choose their own advisor, but they may not proceed without an advisor. If a party does not have an advisor, the College will appoint an advisor and the selection will be in the College's sole discretion. The College 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, the College is not obligated to provide an attorney.

Advisor's Role

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.

All advisors are subject to the same College policies and procedures, whether they are attorneys or not. Advisors are expected to advise their advisees without disrupting proceedings. The advisor may not make a presentation or represent their advisee during any meeting or proceeding and may not speak on behalf of the advisee to the Investigator(s) or other Decision-maker(s), with the sole exception of conducting cross-examination during a hearing proceeding. In conducting cross-examination, the advisor will not be abusive towards any party or witness, and will act with appropriate decorum.

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 policy will be warned only once. If the advisor continues to disrupt or otherwise fails to respect the limits of the advisor role, the meeting 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.

Sharing Information with the Advisor

The College expects that the parties may wish to have documentation and evidence related to the allegations shared with their advisors. Parties may share this information directly with their advisor, but the advisor will be under the same expectations of privacy as the party. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by the College. The College 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 the College's privacy expectations. The College may require both parties and their advisors to enter into a written agreement prohibiting the use or dissemination of evidence for any purpose other than those directly related to the parties' participation in resolution process.

2. Informal Resolution

After the filing of a formal complaint, the College may facilitate an informal resolution between the parties, and at any time prior to the Decision-Maker's determination of responsibility via the issuance of a written decision.

The Title IX Coordinator will assess the severity of the alleged harassment and the potential risk of a hostile environment for others in the community to determine whether informal resolution may be appropriate. Informal Resolution will not be available to resolve allegations involving an employee sexually harassing a student.

The College will not require the parties to participate in the Informal Resolution process as a condition of enrollment, continuing enrollment, or employment or continuing employment, or of any other right conferred by the College.

The Title IX Coordinator, or trained designee, will provide the parties with a written notice setting for the allegations, the requirements of the informal resolution process set forth in this Policy, the right of any party to withdraw from the informal process and proceed with the formal complaint resolution process above, at any time prior to agreeing to a resolution; and any consequences resulting from the participation in the informal process, including the records that will be maintained or could be shared by the College. Both parties must voluntarily consent in writing to participation in the informal resolution process.

The Title IX Coordinator, or trained designee, will attempt to aid the parties in finding a mutually acceptable resolution to the complaint. This resolution will be reduced to writing and must be signed by the Complainant and the Respondent. Once both parties have voluntarily signed the written resolution, the written resolution becomes final and neither party can initiate the formal complaint resolution process above to resolve the allegations in the formal complaint. The written resolution is not subject to appeal.

3. Formal Resolution Process

a. Notice of Investigation and Allegations

After receipt of a formal complaint, the Title IX Coordinator will provide written notice of the investigation and allegations (the "NOIA") simultaneously to both parties.

The NOIA will include:

- The identity of the involved parties (if known),
- The misconduct being alleged,
- The date and location of the alleged incident(s) (if known),
- The policies potentially implicated,
- A statement that the College presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination,
- The parties' rights to have an advisor of their choice at the party's expense, who may be an attorney,
- A statement informing the parties that the College's Policy prohibits knowingly making false statements, including knowingly submitting false information during

the resolution process, and may constitute an independent basis for disciplinary sanctions, up to and including suspension or expulsion of a student or termination of an employee's employment;

- The name(s) of the Investigator(s), along with a process to identify, in advance of the interview process, to the Title IX Coordinator any conflict of interest that the Investigator(s) may have, and
- The parties' rights to review and comment on investigative evidence.

The NOA shall be provided prior to the initial interview of any party, and within a sufficient amount of time to prepare. Parties will be also be provided advance notice in writing of the date, time, location, participants, and purpose of any interview, hearing, or meeting in the investigation and resolution process.

If, during the course of investigation, the College determines that additional allegations will be investigated as part of the pending complaint, the Title IX Coordinator or designee will provide written notice of the additional allegations to any identified Complainant(s) or Respondent(s).

b. Investigators

The Title IX Coordinator will assign an investigator or investigators who have received annual training to investigate campus matters of sexual harassment and on how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability to conduct the investigation, usually within two (2) business days of determining that an investigation should proceed. The investigation team may be composed of College employees, external professionals, or a combination of both.

To ensure impartiality the Title IX Coordinator will vet assigned investigators to ensure there are no actual or apparent conflicts of interest or disqualifying biases. If, prior to the initiation of the investigation, either party alleges that an investigator has a conflict of interest, the Title IX Coordinator will decide whether to excuse the investigator and announce his/her decision in writing to both parties. If the Title IX Coordinator determines that the investigator should be excused, or if an investigator is unavailable to conduct the investigation, the Title IX Coordinator will appoint a replacement investigator.

c. Investigation Process

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

While in-person interviews for parties and all potential witnesses are ideal, circumstances (e.g., study abroad, summer break) may require individuals to be interviewed remotely. Skype, Zoom, FaceTime, or similar technologies may be used for interviews if the Investigator(s) determine that timeliness or efficiency dictate a need for remote interviewing. The College will take appropriate steps to reasonably ensure the security/privacy of remote interviews.

All investigations will be conducted as discreetly as is practicable. No unauthorized audio or video recording of any kind is permitted during investigation meetings. Investigator(s) are

encouraged to confer with the Title IX Coordinator throughout the process in an effort to ensure compliance with the outlined processes.

The burden of proof and the burden of gathering sufficient evidence to reach a determination of responsibility rests with the College and not with the parties. The investigation may include, but is not limited to, interviews with the Complainant, the Respondent, any witnesses identified by the parties or by the investigator as having information relevant to the complaint, and collecting and reviewing any relevant documents, communications, or physical evidence if possible. The Investigation typically includes the following:

- Interview the Complainant and Respondents separately. Each party will be asked to participate in an initial interview and may be asked to participate in a follow-up interview(s) as needed.
- Each party may offer witnesses and other information, documents or other evidence relevant to the complaint, both inculpatory and exculpatory. Information, documents or other evidence provided by the parties and witnesses may be shared with both parties during the investigation.
- The order of the interviews will be determined by the Investigator(s) based on the circumstances of each complaint.
- The investigator(s) will make a good faith effort to contact and interview witnesses.
- In the event Complainant or Respondent request reasonable accommodations during the investigation process due to a disability, the investigator(s) will consult with the Title IX Coordinator.

Neither party will be restricted in their ability to discuss the allegations or to gather and present relevant evidence; provided, however, that such communications shall not constitute harassment of or retaliation against any party.

The Investigator(s) will evaluate all relevant evidence, both inculpatory and exculpatory. The Investigator(s) will only access, consider, disclose, or otherwise use a party's treatment records made or maintained by a health care provider, or other records protected under a legally recognized privilege, if the party provides the investigator(s) with voluntary, written consent to do so. The Investigator will also deem irrelevant 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.

d. Inspection and Review of the Evidence and Investigation Report

Prior to the completion of the investigation report, the Complainant and Respondent and, unless directed otherwise by the respective parties, their advisor, will be provided the opportunity to inspect all evidence directly related to the allegations of the formal complaint, including both inculpatory and exculpatory evidence, and evidence that the College does not intend to rely on in reaching a determination. The College may require both parties and their advisors to enter into a written agreement prohibiting the use or dissemination of evidence for any purpose other than those directly related to the parties' participation in resolution process.

Complainant and Respondent will be given *at least ten days* to inspect and review the evidence collected during the College's investigation and to submit a written response the Investigator(s) will consider in preparing a final investigation report. The parties can waive all or part of this inspection period.

The final investigation report will summarize the information and include any documents gathered. The investigative report will not include determination of responsibility for the complaint itself. Complainant and Respondent will be given at least an *additional ten days* after receiving a copy of the College's final investigation report to respond to the investigation report, in writing. In their written response to the investigation report, Complainant and Respondent may provide written comments regarding the relevance of the evidence included in or excluded from the investigation report, provide factual or other corrections to the report, and otherwise provide context for the report.

The final investigation report will be distributed, concurrently, to both of the parties and the Title IX Coordinator at least ten (10) calendar days prior to a hearing to determine responsibility.

e. Hearing

After the conclusion of the investigation, the Title IX Coordinator will refer the matter for a hearing.

The Title IX Coordinator will select a three-member panel of appropriate Decision-makers, which may include internal College personnel and/or external hearing officers. One member of the Panel will be appointed by the Title IX Coordinator as Chair for the hearing. The Decision-makers will not have had any previous involvement with the investigation.

i. Notice of Hearing

The hearing will convene at a time determined by the Chair or designee.

No less than ten (10) calendar days before the hearing, the Title IX Coordinator or designee will prepare and send the parties a written notice of the time and date of the hearing, as well as the identities of the Hearing Panel. Within five (5) calendar days, either the Complainant or Respondent may request, in writing to the Title IX Coordinator, that one or more members of the Hearing Panel be recused because of an identified conflict of interest. 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).

If a party requests, the entire hearing will be conducted with the parties in separate rooms with technology enabling the Hearing Panel and parties to simultaneously see and hear the witness answering questions.

ii. Notice of Witnesses

At least five (5) calendar days before the hearing, the Hearing Panel or designee will notify the parties in advance which witnesses (including Complainant or Respondent) they would like to be present at the hearing. The Hearing Panel or designee will notify these witnesses of the

hearing date and time and that their presence has been requested. Any witness called by the Hearing Panel will also be expected to answer questions from the parties.

- When notifying the parties of these witnesses, the Hearing Panel or designee will also request the parties identify any additional witnesses they wish to have present at the hearing for cross-examination.
- The Hearing Panel or designee will notify relevant witnesses of the hearing date and time and that their presence has been requested by the party for cross-examination.

iii. Pre-Hearing Meetings

The Chair may convene a pre-hearing meeting(s) with the parties to invite them to submit the questions or topics they wish to ask or discuss at the hearing, so that the Chair can consider and discuss their relevance ahead of time. However, this advance discussion does not preclude a party from introducing evidence or an advisor from asking any cross-examination question at hearing.

The Chair, **only** with full agreement of the parties, may decide in advance of the hearing that certain witnesses do not need to be present if their testimony can be adequately summarized by the Investigator(s) in the investigation report or during the hearing.

At each pre-hearing meeting with a party, the Chair may 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.

iv. Hearing Procedures

At the hearing, the Hearing Panel has the authority to hear and make determinations on all allegations of discrimination, harassment, and/or retaliation.

The hearing is closed to the general public. Participants at the hearing will include the Chair, the rest of the Hearing Panel, the parties, advisors to the parties, any called witnesses, and anyone providing authorized accommodations or assistive services. Any additional persons present must be approved by the Chair.

The Chair will answer all questions of procedure and make all evidentiary rulings. There shall be no formal pleadings, legal memorandum, or motions filed in the hearing process.

Hearings (but not post-hearing deliberations) are recorded by the College for purposes of review in the event of an appeal. The parties may not record the proceedings and no other unauthorized recordings are permitted. No person will be given or be allowed to make a copy of the recording without permission of the Title IX Coordinator.

The Chair conducts the hearing, which may include, but is not limited to, the following steps, in the Chair's discretion:

- The Chair explains procedures and introducing participants;
- The Chair will advise the parties if opening statement or closing statements are permissible;
- The parties may be asked if they have any additional evidence they wish the Hearing Panel consider, and if the parties wish to comment on the Investigation Report and evidence.
- Any new evidence presented by a party, if admitted as relevant, will be provided to the other party to review and provide comment
- Testimony and questioning: Parties will be allowed, through their advisors, to cross-examine all other parties and any witnesses, including fact and expert witnesses, and to ask all relevant questions and follow-up questions including those challenging party or witness credibility, directly, orally and in-real time. Any party without an advisor will be appointed an advisor by the College, with selection of the advisor being at the sole discretion of the College. The following applies to cross-examination:
 - All questions are subject to a relevance determination by the Chair. The advisor, who will remain seated during questioning, will pose the proposed question orally, electronically, or in writing. The Chair will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), or abusive.
 - The Chair may ask advisors to frame why a question is or is not relevant from their perspective, if the Chair so chooses. The Chair will explain any decision to exclude a question as not relevant. The Chair has final say on all questions and determinations of relevance, subject to any appeal.

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

v. 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 after being called, or they attend but refuse to participate in questioning, then the Hearing Panel 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. Evidence provided that is something other than a statement by the party or witness may be considered.

The Hearing Panel 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.

f. Deliberation, Decision-Making, and Standard of Proof

The Hearing Panel will deliberate in closed session to determine whether the Respondent is responsible or not responsible for the policy violation(s) in question. A simple majority vote is required to determine a finding. The preponderance of the evidence standard of proof is used, which generally means "more likely than not." The Hearing Panel will independently evaluate the evidence, without deference to the investigative report.

A written decision called a Notice of Outcome will be provided simultaneously to the parties and include the following information:

- 1) allegations of sexual harassment,
- 2) procedural history (including specifics about notifications of hearings, meetings and interviews, methods used to gather evidence and hearings held),
- 3) findings of fact supporting the decision,
- 4) conclusions regarding application of policy to the facts,
- 5) rationale for the decision/finding of responsibility as it applies to each allegation,
- 6) disciplinary sanctions imposed on respondent, if any,
- 7) whether (but not the nature of) remedies designed to restore/preserve equal access to any or all education programs or activities that will be provided to the Complainant, and
- 8) procedure and permissible bases for appeal.

The Title IX Coordinator will be responsible for coordinating the effective implementation of remedies, as well as any non-punitive or non-disciplinary supportive measures imposed.

The possible range of sanctions and remedies are detailed in Section VIII(G) below. The Notice of Outcome, including the imposition of any sanctions, will become final upon written notification to the parties of the outcome of an appeal or, if there is no appeal, the date on which an appeal would no longer be considered timely. The Appeal Rights and Procedures are detailed below.

g. Appeal Process

Either party may request that an Appeal Officer review a Notice of Outcome in writing, by submitting a written Notice of Appeal to the Title IX Coordinator within five (5) days of the date of the Notice of Outcome. If a party is seeking stay of one or more sanctions during the appeal, that must be included in the Notice and will be decided by the Appeal Officer.

In the Notice of Appeal, the appealing party must identify one of the following bases for appeal and explain in detail how such a basis for appeal exists in the case:

- a. To consider new information, unavailable during the investigation, that could be outcome determinative; a summary of this new evidence and its potential impact on the decision must be included;
- b. To assess whether a deviation from written procedures materially impacted the fairness of the investigation (a deviation materially impacts an investigation if a different outcome is probable if the alleged procedural defect is corrected);
- c. To decide if a sanction(s) is grossly disproportionate to the severity of the offense (either too lenient or too harsh); and/or
- d. To assess whether the Title IX Coordinator, Investigator(s), or Hearing Panel member had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome.

Upon receiving a timely Notice of Appeal, the Title IX Coordinator will determine if the request meets the grounds for appeal (A Review for Standing). This review is not a review of the merits of the appeal, but solely a determination as to whether the request meets the grounds and is timely filed.

If the Notice of Appeal meets the grounds for appeal, the Title IX Coordinator will share a copy of the Notice of Appeal with the non-appealing party and appoint an Appeal Officer. If, within three calendar days of receiving notification of the identity of the Appeal Officer, either the Complainant or the Respondent alleges that the Appeal Officer has a conflict of interest, the Title IX Coordinator will decide whether to excuse the Appeal Officer and announce this decision in writing to both parties. If the Title IX Coordinator determines that the Appeal Officer should be excused, the Title IX Coordinator will appoint a replacement.

The Appeal Officer will give the original Hearing Panel and non-appealing party five (5) days to submit a response to the Notice of Appeal.

The Title IX Coordinator will ensure that the Appeal Officer is provided with the following materials in addition to the Notice of Appeal: (a) the Notice of Investigation and Allegations; (b) the Investigators' Final Investigation Report; and (c) the Notice of Outcome.

The Appeal Officer will issue a written Appeal Decision within five (5) calendar days after receiving the response from the non-appealing party, and that decision will be provided to the parties, the Title IX Coordinator, and the Hearing Panel. The Appeal Officer may affirm, reverse, or modify the Notice of Outcome. When the Appeal Office issues its decision in writing and simultaneously to the parties, the matter is final with the exception of the following: If the respondent is a faculty member, and a final decision recommends termination, the College will follow the applicable termination processes and procedures of Iowa Code chapter 279.

h. Sanctions

i. Student Sanctions

The following are the range of 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 College policy, procedure, or directive will result in more severe sanctions/responsive actions.
- *Required Counseling:* A mandate to meet with and engage in either College-sponsored or external counseling to better comprehend the misconduct and its effects.
- *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.
- *Suspension:* Termination of student status for a definite period of time not to exceed two years and/or until specific criteria are met.
- *Expulsion:* Permanent termination of student status and revocation of rights to be on campus for any reason or to attend College-sponsored events.
- *Organizational Sanctions:* Deactivation, loss of recognition, loss of some or all privileges (including Southeastern Community College registration) for a specified

period of time.

- *Other Actions:* In addition to or in place of the above sanctions, the College may assign any other sanctions as deemed appropriate.

ii. Employee Sanctions

The range of disciplinary sanctions for an employees include:

- *Warning – Verbal or Written*
- *Performance Improvement/Management Process*
- *Required Counseling*
- *Required Training or Education*
- *Probation*
- *Loss of Annual Pay Increase*
- *Loss of Oversight or Supervisory Responsibility*
- *Demotion*
- *Suspension with pay*
- *Suspension without pay*
- *Termination**
- *Other Actions:* In addition to or in place of the above sanctions, the College may assign any other sanctions as deemed appropriate.

*As noted above, this policy does not provide the authority to terminate a faculty member due to the contractual rights that accompany a faculty member's state of Iowa Chapter 279 contract. Accordingly, if the outcome of an adjudication under this policy results in a sanction calling for separation/termination from the College, a recommendation will be made from the Title IX Coordinator and/or Human Resources Director to the College President to pursue the separation/termination.

iii. Remedial Measures

Following the conclusion of the resolution process, and in addition to any sanctions implemented, the Title IX Coordinator may implement additional long-term remedies or actions with respect to the parties and/or the campus community that are intended to stop the misconduct and/or retaliation, remedy the effects, and prevent reoccurrence.

i. Recordkeeping

For matters under the scope of Title IX, the College will maintain for a period of at least seven years records of:

1. Each sexual harassment investigation, including determinations, audio or visual recordings, disciplinary sanctions, and any remedies provided to the Complainant;
2. Any appeal and the result therefrom;
3. Informal Resolution, if any; and
4. All materials used to train Title IX Coordinators, Investigators, and those who facilitate informal resolution, and decision-makers with regard to sexual harassment. Southeastern Community College will make these training materials publicly available on the College's website; and
5. Any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment, including:

- i. The basis for all conclusions that the response was not deliberately indifferent;
- ii. Any measures designed to restore or preserve equal access to the College's education program or activity; and
- iii. If no supportive measures were provided to the Complainant, or if the complainant's requested supportive measures are rejected, documentation of why it was not clearly unreasonable to do so.

4. Process B: Grievance Process for Allegations of Harassment or Discrimination on the Basis of Protected Class Status and/or Allegations of Sexual Harassment not Covered under Process A

Process B applies to the resolution of offenses such as violations of policies on protected class harassment or discrimination involving students, staff, faculty members, or third parties. Process B can also apply to sexual harassment (including sexual assault, dating violence, domestic violence, and stalking, as defined above) when jurisdiction does not fall within Process A, as determined by the Title IX Coordinator. All other allegations of misconduct unrelated to incidents covered by this policy will be addressed through the procedures elaborated in the respective student, faculty, and staff policies.

1. Right to an Advisor

Each party may utilize an advisor, at the party's own expense, to accompany them to meetings and interviews during these proceedings. The advisor can be anyone, including an attorney, but should not be someone who is also a witness in the process. The advisor may be asked to sign a non-disclosure agreement (NDA) regarding private, sensitive records.

2. Resolution Options

Proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accord with College Policy, and to maintain the integrity and impartiality of the process.

a. Informal Resolution

Particularly with workplace discrimination and harassment, before filing a formal complaint, individuals are encouraged to make informal inquiry to their immediate supervisor, instructor, advisor or counselor, as soon as possible following the alleged discrimination or harassment. The employee contacted should report the incident to the Title IX Coordinator for purposes of documentation and advice regarding the necessary steps of the complaint process. Every effort should be made to resolve the conflict at this time. If this is not possible, the individual will be referred to the Title IX Coordinator.

After referral or receipt of a report or complaint, the Title IX Coordinator should assess the severity of the alleged harassment and the potential risk of a hostile environment for others in the community to determine whether informal resolution may be appropriate. If so, the Title IX Coordinator will work with the parties to determine if a negotiated resolution of the complaint, which may include disciplinary sanctions, remedies, or other supportive measures, are appropriate to resolve the complaint and remediate any alleged discrimination or harassment.

b. Formal Resolution

If informal resolution is not appropriate or unsuccessful, a formal complaint will be adjudicated through a formal investigation and resolution process.

1. Investigation

The College aims to complete all investigations within sixty (60) business days, which can be extended as necessary for appropriate cause by the Title IX Coordinator, with notice to the parties as appropriate. Some investigations take longer, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc. The College 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.

Once the decision is made to commence an investigation, the Title IX Coordinator will appoint one or more Investigator(s), which may include internal or external investigators, to conduct the investigation. Investigations involve interviews with all relevant parties and witnesses, and obtaining available, relevant evidence. All parties have a full and fair opportunity, though the investigation process, to suggest witnesses and questions and to provide evidence. No unauthorized audio or video recording of any kind is permitted during the resolution process. If Investigator(s) elect to audio and/or video record interviews, all involved parties must be made aware of audio and/or video recording.

2. Resolution/Sanctions

Following the investigation, the Investigator(s) will provide the Title IX Coordinator, in writing or as otherwise deemed appropriate, with a summary of the investigation, relevant findings, and whether based on a preponderance of the evidence the Respondent violated the Policy. And sanctions or remedial measures will be determined via applicable policy or practice for faculty, staff, or students.

- For staff, the employee's supervisor in conjunction with Human Resources will determine appropriate sanctions, up to and including termination.
- For faculty, applicable faculty disciplinary processes will be followed, including for cases of termination the applicable procedures of Iowa Code chapter 279.
- For students, the matter will be referred to the applicable student conduct code process for determination of sanctions.

College sanctions for such misconduct could include the range of sanctions detailed above.

3. Special Consideration - VAWA

To the extent the complaint alleges dating violence, domestic violence, stalking, or sexual assault which fall outside the scope of the Title IX, the College shall nonetheless ensure the following procedural rights to the parties in the applicable adjudication process:

- a. The parties will each have the opportunity to participate in the investigatory and disciplinary process which is overseen by properly trained individuals;

- b. The parties will each have the opportunity to be advised by a personal advisor of their choice, at their expense, at any stage of the process and to be accompanied by that advisor at any meeting or hearing. An advisor may only consult and advise his or her advisee, but not speak for the advisee at any meeting or hearing, except as expressly provided for in applicable procedures;
- c. Decisions will be based on the preponderance of evidence standard. In other words, the investigator or adjudicator will determine if it more likely than not that the respondent violated the applicable policy;
- d. The parties will be notified simultaneously in writing of the outcome of any disciplinary proceeding, as well as any changes to those results or disciplinary actions prior to the time that such results become final; and
- e. If there is a right to appeal, the right is granted co-equally to the parties and the right will be explained in the applicable procedures. The parties will be notified simultaneously in writing of the final outcome of an appeal, if applicable.