

**SOUTHERN WEST VIRGINIA COMMUNITY AND TECHNICAL COLLEGE
BOARD OF GOVERNORS
SCP-2843**

SUBJECT: Sexual Harassment Policy

REFERENCE: WV Code Section 18B-1-6; West Virginia Human Rights Act; Title VII of the Civil Rights Act of 1964, as amended; Title IX of the Education Amendments of 1972.

ORIGINATION: June 1, 1984

EFFECTIVE: September 1, 2000

REVIEWED: January 11, 2011

SECTION 1. PURPOSE

1.1 This policy emphasizes Southern West Virginia Community and Technical College's strong opposition to sexual harassment. The policy defines sexual harassment, provides guidelines for filing sexual harassment complaints, and explains what action will be taken against those found to have engaged in sexual harassment.

SECTION 2. SCOPE AND APPLICABILITY

2.1 This policy is without limitation in scope or application. Southern will not tolerate, condone or allow sexual harassment whether engaged in by employees, students or visitors. All employees, students and visitors are expected to act in a positive manner and contribute to a productive work and academic environment that is free from sexual harassment.

SECTION 3. DEFINITIONS

3.1 State and federal laws define and prohibit sexual harassment.

3.2 For purposes of this policy, sexual harassment is defined as unwelcome and unwanted conduct (verbal or physical) either of a sexual nature, or based upon a person's sex when:

3.2.1 Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's continuing employment or a student's ability to participate in or to receive benefits, services or opportunities in a course, program, or activity, or

3.2.2 Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting the employee or the basis for academic or other decisions affecting the student; or

3.2.3 Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or a student's educational experience or of creating an intimidating, hostile or offensive work or academic environment

3.3 Some examples of sexual harassment include, but are not limited to, the following:

3.3.1 Demanding sexual favors in exchange for favorable treatment, grades, reviews, assignments, promotions, continued employment or promises of the same;

- 3.3.2 Unwelcome leering, whistling, touching, patting, or pinching, purposely rubbing up against or brushing another's body, and insulting, abusive or obscene comments or gestures;
- 3.3.3 Verbal comments of a sexual or sex-based nature, including continued or repeated jokes, epithets, flirtations, advances or propositions;
- 3.3.4 Graphic or suggestive verbal commentary about an individual's dress, body, sexual prowess or sexual deficiencies;
- 3.3.5 Sexually degrading vulgar words to describe an individual;
- 3.3.6 Displays in the workplace, classroom or other Southern property of sexually suggestive objects, photographs, posters, cartoons or graffiti;
- 3.3.7 Name calling and relating stories, gossip, comments or jokes that have a sexual connotation;
- 3.3.8 Sexual or sex-based assault or coerced sexual acts; and
- 3.3.9 Retaliation against an employee or student for complaining about such behavior.

SECTION 4. POLICY

- 4.1 It is Southern's policy to provide a productive work and educational environment where faculty, staff and students can work and study free from sexual harassment. Southern will take action to prevent and eliminate verbal or physical conduct by any employee or student that harasses, disrupts, or interferes with another's work or academic performance or that creates an intimidating, or offensive or hostile environment.
- 4.2 Conduct that constitutes sexual harassment is unacceptable and illegal. Southern will not tolerate any sexual harassment of its students or employees on Southern property, in other Southern-related settings or at Southern-related events.
- 4.3 If sexual harassment allegations are not substantiated, all reasonable steps shall be taken to protect the reputation of the accused. Moreover, if the complainant is found to have intentionally or maliciously been dishonest or frivolous in making the allegations, the complainant shall be subject to appropriate disciplinary action.

SECTION 5. BACKGROUND OR EXCLUSIONS

- 5.1 None.

SECTION 6. GENERAL PROVISIONS

- 6.1 While Southern encourages individuals who believe they are being harassed to notify the offender firmly and promptly that his or her behavior is unwelcome, Southern also recognizes that power and status disparities between an alleged harasser and a target of harassment may make such a confrontation impossible. In the event that such informal, direct communication between individuals is either ineffective or impossible, then any such conduct should be reported **immediately** (preferably in writing) to one of the following persons: the respective campus Counselor, Director or Manager; Office of the Chief Financial Officer; or the Chief Officer of Academics; Economic, Workforce and Community Development; Student Services; or Technology/Information Services. Nothing in this policy shall be constructed to prohibit the filing of a

complaint with the West Virginia Human Rights Commission or other agency charged with the responsibility to enforce laws that prohibit sexual harassment.

- 6.2 Any administrator, counselor or other employee who receives a report of sexual harassment or who is otherwise made aware of a situation, action or behavior that could be deemed as sexual harassment is responsible for reporting the suspected harassment to his or her unit vice president or to the Office of the Chief Financial Officer unless prohibited from doing so by law. Failure to report promptly the suspected harassment will result in appropriate disciplinary action.
- 6.3 Upon receipt of a report or complaint alleging sexual harassment, the Office of the Chief Financial Officer shall immediately undertake or authorize an investigation. That investigation may be conducted by College personnel or by a third party designated by the College. The investigation may consist of personal interviews with the complainant, the individual against whom the complaint is filed, and others who have knowledge of the alleged incident or circumstances giving rise to complaint. The investigation may also consist of the evaluation of any other information or documents which may be relevant to the particular allegations. In determining whether the alleged conduct constitutes a violation of this policy, the College shall consider:
 - 6.3.1 the nature of the behavior;
 - 6.3.2 how often the conduct occurred;
 - 6.3.3 whether there were past incident or past continuing patterns of behavior;
 - 6.3.4 the relationship between the parties involved;
 - 6.3.5 the sex and age of the victim;
 - 6.3.6 the identity of the perpetrator, including whether the perpetrator was in a position of power over the employee, student, or visitor allegedly subjected to harassment;
 - 6.3.7 the number of alleged harassers;
 - 6.3.8 the age of the alleged harasser;
 - 6.3.9 where the harassment occurred;
 - 6.3.10 whether there have been other incidents in the College involving the same of other employees, students, or visitors;
 - 6.3.11 whether the conduct adversely affected an employee's work environment or a student's education or educational environment;
 - 6.3.12 the context in which the alleged incidents occurred; and
 - 6.3.13 whether or not speech or expression that is alleged to constitute harassment is protected by the First Amendment to the United States Constitution.
 - 6.3.14 Whether a particular action or incident constitutes a violation of this policy, requires a determination based on all the facts and surrounding circumstances. The investigation shall be completed no later than 14 days from receipt of the report. The Office of the Chief Financial Officer shall make a written report to the President or his or her designee upon completion of the investigation. If the

complaint involves the President, the report may be filed directly with the Chair of the Board of Governors. The report shall include a determination of whether the allegations have been substantiated as factual and whether they appear to be violations of this policy. The Office of the Chief Financial Officer's obligation to conduct this investigation shall not be extinguished by the fact that a criminal investigation involving the same or similar allegations is also ending or has been concluded.

- 6.4 The results of the investigations of each complaint filed under these policies will be reported in writing to the complainant and other parties by the College in accordance with the state and federal laws regarding data or records privacy, and consistent with the privacy rights of the alleged harasser.
 - 6.4.1 If the results of the investigation of a complaint of sexual harassment results in a conclusion that an individual has engaged in sexual harassment violation of this policy, or that College personnel have failed to report suspected sexual harassment as required herein, appropriate remedial action will be pursued, including student and College personnel disciplinary action, when appropriate.
- 6.5 Following investigation, the following actions may be taken against an individual found to have engaged in sexual harassment:
 - 6.5.1 If the individual is an employee, appropriate disciplinary action up to and including termination of employment;
 - 6.5.2 if the individual is a student, appropriate disciplinary action up to and including expulsion imposed consistent with the Policy on Student Rights and Responsibilities;
 - 6.5.3 If the individual is a visitor, appropriate action including, but not limited to, being forbidden from entering Southern property imposed consistent with the Policy on Use of Institutional Facilities; and
 - 6.5.4 If the individual is a third party who engages in harassing conduct against a Southern employee or student away from Southern property, appropriate remedial action including, but not limited to, reporting such conduct to the third party's employer or school.
- 6.6 It shall also be a violation of this policy to engage in retaliation or reprisal against any person who reports sexual harassment or intimidation or who testifies, assists or participates in an investigation or proceeding involving sexual harassment

SECTION 7. RESPONSIBILITIES AND PROCEDURES

- 7.1 All Southern employees, students, and visitors are expected to:
 - 7.1.1 engage in conduct that meets professional standards,
 - 7.1.2 remain sensitive to the effect of their actions and words on others,
 - 7.1.3 take appropriate action to prevent sexual harassment,
 - 7.1.4 avoid behavior that might be construed as sexual harassment,
 - 7.1.5 acquaint themselves with the policy,
 - 7.1.6 bring questions about procedure, seek informal advice or

7.1.7 present complaints if alleged sexual harassment has occurred or is suspected to his/her immediate supervisor and/or the AA/EEO Office.

7.2 The Office of the Chief Financial Officer and Office of the Vice President for Enrollment Management shall have the responsibility to oversee the implementation of this policy, to ensure that employees and students are aware of the policy, to ensure Southern’s compliance with relevant state and federal laws, and to ensure that employees and students receive any necessary training with regard to sexual harassment issues. The Office of the Vice President for Enrollment Management is primarily responsible for student-related matters, and the Office of the Chief Financial Officer is primarily responsible for all other matters, including employee-related matters.

7.3 Inquiries on anti-discrimination laws (Human Rights Act, Civil Rights Act, and/or Title IX Amendments) as they relate to this policy should be addressed to:

Affirmative Action Officer
Southern West Virginia Community and Technical College
P. O. Box 2900, Mount Gay, West Virginia 25637
(304) 896-7408

Title IX Coordinator
Southern West Virginia Community and Technical College
P. O. Box 2900 Mount Gay, West Virginia 25637
(304) 896-7432

SECTION 8. CANCELLATION

8.1 Any previous policy being superseded.

SECTION 9. REVIEW STATEMENT

9.1 This policy shall be reviewed on a regular basis with a time frame for review to be determined by the President or the President’s designee. Upon such review, the President or President’s designee may recommend to the Board that the policy be amended or repealed.

SECTION 10. SIGNATURES

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| | Board of Governors Chair | Date |
| | President | Date |

Attachments: None.

Distribution: Board of Governors (12 members)
www.southernwv.edu

Revision Notes: January 2011— Revisions reflect no substantial changes in procedure or documentation requirements. Revisions provide clarity and reflect changes in management responsibilities.