



Policy Title:	Gender Discrimination & Sexual Misconduct (Title IX)		
Policy Category:	<i>Ethics, Legal & Compliance Policies</i> <i>Student Policies</i> <i>Employment, Benefits & Workplace Policies</i> <i>Public Safety and Environment Health & Safety Policies</i>		
Related Procedure(s)/ Guideline(s):			
Policy Owner	Chief Human Resources Officer / Director of Facilities, Safety and Security/Title IX Deputy		
Date Approved:	August 22, 2016		
Review Dates:		Revision Dates:	8.13.20
Policy Scope:	Employees, Students, Board Members, Other Stakeholders		
Policy Statement:	<p><u>Purpose</u> To provide a safe and welcoming environment at Southwest Wisconsin Technical College free from all forms of gender and sex-based discrimination in accordance with Title IX of the Education Amendments of 1972 (Title IX).</p> <p><u>Policy</u> It is the policy of the Southwest Wisconsin Technical College District in accordance with provisions set forth in Title IX to ensure that no person is excluded from participation in, be denied the benefits of, or be subjected to discrimination in any form on the basis of sex or gender while engaged or participating in activities of the College. These protections extend to recruitment activities, admissions, counseling, financial assistance, athletics, sex-based harassment, treatment of pregnant or parenting students, discipline, educational programming, use of facilities, and employment. The College will strive to maintain fair and impartial relations with employees, applicants for employment, students, student applicants and members of the public and all reported allegations of misconduct related to this policy will be investigated and enforcement actions will be taken as necessary.</p>		

Intent

This policy is intended to define community expectations and to establish a mechanism for determining when those expectations have been violated. Members of Southwest Tech, community, guests and visitors have the right to be free from all forms of gender and sex-based discrimination, examples of which can include acts of sexual violence, sexual harassment, domestic violence, dating violence, and stalking. All members of the campus community are expected to conduct themselves in a manner that does not infringe upon the rights and safety of others. Southwest Tech believes in a zero tolerance in regards to gender or sex-based misconduct or discrimination. When an allegation of misconduct is officially reported, that violation will be investigated in accordance with the provisions of this policy. In circumstances in which misconduct is found to be present, the College will take action to remedy the situation, including the possibility of significant disciplinary sanctions. Although the pronouns he/him and she/her are used throughout this policy, these protections are extended to all persons regardless of gender identity or expression.

History & Background

Title IX of the Education Amendments of 1972 was passed by Congress on June 23, 1972. Title IX protects people from discrimination based on sex in education programs or activities that receive Federal financial assistance. Title IX states that:

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”

In 1990, The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (commonly referred to as the Clery Act), was signed into federal law as an amendment to the Higher Education Act of 1965. The Clery Act includes several key provisions that impact campus operations involving the safety and security of students to include:

- The requirement for all colleges to provide an annual report of all crimes that occur on campus
- The requirement for all colleges to include in the annual report campus safety and security policies
- The Campus Sexual Assault Victim’s Bill of Rights, which requires colleges to disclose educational programming, campus disciplinary processes, and victim rights regarding sexual violence complaints.

In 2013, the Clery Act was expanded as part of the Campus Sexual Violence Elimination Act (SAVE) of 2013 and Violence Against Women Reauthorization Act (VAWA). As part of this expansion, colleges and universities were required to implement policies and programs to prevent sexual assault, dating violence, domestic violence, and stalking.

Definitions

- **Abuse:** Abuse means intentionally or recklessly causing or attempting to cause bodily injury or placing another person in reasonable apprehension of imminent serious bodily injury to himself or herself, or another. Abuse does not include non-physical, emotional distress or injury.
- **Accommodations:** for the purposes of this policy are changes in the academic environment or typical operations that enable a pregnant student or student with a pregnancy-related condition to continue to pursue her studies and enjoy equal access to the educational programs and activities of the college. Accommodations may include modifications to the physical environment (accessible seating), extended deadlines and/or ability to make up tests or assignments for pregnancy-related absences, and remote learning options
- **Actual Knowledge:** Means notice of sexual harassment or allegations of sexual harassment to the College's Title IX Coordinator or any official of the College who has authority to institute corrective measures on behalf of the college.
- **Adverse Action:** Adverse Action means an action that has a substantial and material adverse effect on the Complainant's ability to participate in a College program or activity free from Discrimination, Harassment or Retaliation. Minor or trivial actions or conduct not reasonably likely to do more than anger or upset a Complainant does not constitute an Adverse Action.
- **Advisor:** Any individual who provides the accuser support, guidance, or advice.
- **Affirmative Consent:** Affirmative Consent means an informed, affirmative, conscious, voluntary, and mutual agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that s/he has the Affirmative Consent of the other participant(s) to engage in the sexual activity. Lack of protest or resistance does not mean consent nor does silence mean consent.
 - Affirmative Consent can be withdrawn or revoked. Affirmative Consent cannot be given by a person who is incapacitated.
 - A person with a medical or mental Disability may also lack the capacity to give consent.
 - Mental or physical incapacitation due to drugs or alcohol will prohibit an individual from giving affirmative consent.
 - Sexual activity with a minor (under 18 years old) is never consensual because a minor is considered incapable of giving legal consent due to age.
- **Campus:** For the purpose of this policy, refers all property and facilities owned or controlled by Southwest Tech.
- **College:** For the purpose of this policy, refers to Southwest Tech
- **College Employee:** The following categories, as defined in the Southwest Tech Employee Handbook, are used to define employees of the College:

- Regular Full-Time (Annual or Fiscal Year Employees): Staff that includes hourly and salaried employees working either on a 190 day contract or on the calendar year.
- Regular Part-Time Employees: Staff who are hired to work on a 190 day contract or on the calendar year and have at least 20 hours or more, but are less than 40-hours in a workweek. This category includes employees who are hired for an indefinite period on a regular basis.
- Part-Time Employees: Staff who are hired to work less than twenty (20) hours per week during a fiscal year or have a work assignment of less than 50 percent during the entire fiscal or academic calendar and who are hired for an indefinite period.
- Temporary or seasonal employees: This category includes staff hired to work full-time or part-time either on the College's payroll or through a temporary agency with the understanding that their employment will be terminated no later than on completion of a specific assignment. Employees hired from temporary agencies for specific assignments are employees of the respective agency and not of the College.
- Volunteers: Not considered employees of the College
- **Complainant**: Complainant means an individual who is eligible to file a Complaint to report a violation of this policy. It also includes any person who is reported to have experienced a violation of this policy in cases where some other person has made a report on that person's behalf. A Complainant may also be referred to as a party to the Complaint.
- **Coercion**: Coercion is unreasonable pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. When an individual expresses that they do not want to engage in sexual activity, that they want such sexual activity to stop, or that they do not want to go past a certain aspect of sexual interaction, continued pressure beyond that point can be considered coercive in nature. This clearly implies that physical force is not necessary to constitute coercion.
 - NOTE: Resistance to prevent or stop sexual activity is a clear indication of non-consent. There is no requirement that a party resists the sexual advance or request to determine non-consent. Sexual activity that is forced is by definition non-consensual, however, non-consensual sexual activity may not necessarily be forced.
- **Domestic Violence**: (VAWA definition): A felony or misdemeanor crime of violence committed:
 - By a current or former spouse or intimate partner of the victim;
 - By a person with whom the victim shares a child in common;
 - By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
 - By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred;

- By any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
- **Dating Violence** : (VAWA definition): Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.
 - 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.
 - For the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
 - Dating violence does not include acts covered under the definition of domestic violence.
 - Any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.
- **Due Process**: Due Process involves the rights and protections offered to a student so that no person is denied her/his legal rights without proper application of the law.
- **Family Educational Rights and Privacy Act (FERPA)**: The Family Educational Rights and Privacy Act (*FERPA*) (20 U.S.C. § 1232g; 34 CFR Part 99) is a Federal law that protects the privacy of student education records. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education.
- **Force**: Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats) and coercion that overcome resistance for the purpose of engaging in unwanted sexual activity.
- **Formal Complaint**: a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment or sexual discrimination against a respondent and requesting that the school investigate the allegation.
- **Gender**: Gender means sex, and includes a person's gender identity and gender expression. Gender expression means a person's gender-related appearance and behavior whether or not stereotypically associated with the person's assigned sex at birth. Sex includes but is not limited to pregnancy, childbirth, breastfeeding or associated medical condition(s). The sexual orientation and/or gender identity of individuals engaging in sexual activity is not relevant to allegations under this policy. They are Protected Statuses.
- **Harassment**: Harassment means unwelcome conduct, based on the Complainant's Protected Status, that is sufficiently severe, persistent or pervasive that its effect, whether or not intended, could be considered by a reasonable person in the shoes of the Complainant, and is in fact considered by the Complainant, as limiting their ability to participate in or

benefit from the services, activities or opportunities offered by the College.

- **Hostile Environment:** Hostile Environments includes any situations in which there is harassing conduct that is sufficiently severe, pervasive and objectively offensive that it alters the conditions of employment or limits, interferes with or denies educational benefits or opportunities, from both a subjective (the alleged victim's) and an objective (reasonable person's) viewpoint. The determination of whether an environment is "hostile" must be based upon all the analysis of all factors and circumstances. These factors and circumstances could include the following:
 - The frequency of the conduct;
 - The nature and severity of the conduct;
 - Whether the conduct was physically threatening;
 - Whether the conduct was humiliating;
 - The effect of the conduct on the alleged victim's mental or emotional state;
 - Whether the conduct was directed at more than one person;
 - Whether the conduct arose in the context of other discriminatory conduct;
 - Whether the conduct unreasonably interfered with the alleged victim's educational or work performance. Examples of such conduct may include:
 - an attempt to coerce an unwilling person into a sexual relationship;
 - to repeatedly subject a person to egregious, unwelcome sexual attention;
 - to punish a refusal to comply with a sexual based request;
 - to condition a benefit on submitting to sexual advances;
 - sexual violence; intimate partner violence;
 - stalking; gender-based bullying.
- **Incapacitation:** Incapacitation is a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent (e.g., to understand the "who, what, when, where, why or how" of their sexual interaction). This policy also covers a person whose incapacity results from mental disability, sleep, involuntary physical restraint, or from the taking of rape drugs. Possession, use and/or distribution of any of these substances, including Rohypnol, Ketamine, GHB, etc. is strictly prohibited, and administering one of these drugs to another student is a violation of this policy.
- **Medical necessity:** is a determination made by a health care provider of a student's choosing.
- **Non-Consensual Sexual Contact:** Any sexual contact, however slight, upon another person that is without affirmative consent.
- **Non-Consensual Sexual Intercourse:** Any sexual intercourse, however slight, upon another person that is without affirmative consent.
- **Pregnancy and pregnancy-related conditions** include pregnancy, childbirth, false pregnancy, termination of pregnancy, breastfeeding,

conditions arising in connection with pregnancy and recovery from any of these conditions.

- **Pregnancy discrimination** includes excluding or treating a student who was or is pregnant or affected by a pregnancy-related condition less favorably than similar individuals not so affected, and includes failure to excuse a student's absences because of pregnancy or childbirth or to provide other accommodations mandated by law.
- **Pregnant student/Birth-parent** refers to the student who is or was pregnant. Although the pronoun she and her are used herein, this policy and its pregnancy-related protections apply to all pregnant persons regardless of gender identity or expression.
- **Preponderance of Evidence:** Preponderance of the Evidence means the greater weight of the evidence; i.e., that the evidence on one side outweighs, preponderates over, or is more than, the evidence on the other side. The Preponderance of the Evidence is the applicable standard for demonstrating facts and reaching conclusions in an investigation conducted pursuant to this policy, and applies to both staff and students.
- **Protected Status:** Protected Status includes Age, Disability, Gender, Genetic Information, Gender Identity or Expression, Nationality, Marital Status, Race or Ethnicity, Religion, Sexual Orientation, and Veteran or Military Status.
- **Remedies:** Measures intended to support the complainant in achieving access to educational opportunities once a determination of responsibility has made against the respondent.
- **Respondent:** The individual against whom a complaint is filed against.
- **Retaliation:** Retaliation means Adverse Action taken against a Student because s/he has or is believed to have:
 - Exercised rights under this policy;
 - Reported or opposed conduct which s/he reasonably and in good faith believes is in violation of this policy;
 - Assisted or participated in a policy-related investigation/proceeding regardless of whether the Complaint was substantiated; or,
 - Assisted someone in reporting or opposing a violation of this policy, or assisted someone in reporting or opposing Retaliation under this policy.
 - Retaliation may occur whether or not there is a power or authority differential between the individuals involved.
- **Sanctions:** Any disciplinary or punitive measures directed at the respondent once a determination of responsibility has been established through the appeal process.
- **Sexual Assault Victim's Advocate** Sexual Assault Victim's Advocate refers to third party professionals appointed to support Complainants reporting Sexual Misconduct. They must be certified and have received specialized training to provide advice and assistance, including but not limited to the provision of information about available options in the Complaint, law enforcement, legal, and medical processes, and with emotional and decision making support. Sexual Assault Victim's Advocates may serve as

the Complainant's Advisor and assist in seeking services. They are committed to maintain the highest possible level of confidentiality permissible under state and federal law in their communications with the persons they assist. Sexual Assault Victim's Advocates are appointed based on experience and demonstrated ability to effectively provide services to victims/survivors/Complainants.

- **Sexual Contact:** Sexual Contact includes the following:
 - intentional contact with the breasts, buttock, groin, or genitals or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts;
 - any intentional bodily contact in a sexual manner, though not involving contact with/of/by breasts, buttocks, groin, genitals, mouth or other orifice.
- **Sexual Exploitation:** Sexual Exploitation occurs when a student takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of other sexual misconduct offenses. Examples of sexual exploitation include, but are not limited to:
 - Invasion of sexual privacy;
 - Forcing another student to engage in prostitution or forced sexual activity;
 - Non-consensual video or audio-taping of sexual activity;
 - Going beyond the boundaries of consent
 - Engaging in voyeurism;
 - Knowingly transmitting an STI or HIV to another student;
 - Exposing one's genitals in non-consensual circumstances or inducing/forcing another to expose their genitals;
 - Sexually-based stalking and/or bullying
- **Sexual Harassment:** For the purposes of Title IX, Sexual Harassment, means conduct on the basis of sex that satisfies one or more of the following:
 - A School employee conditioning education benefits on the participation in unwelcome sexual conduct (i.e., quid pro quo sexual harassment)
 - Unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to College's education program or activities
 - Conduct involving the following offenses:
 1. Sexual Assault
 2. Dating Violence
 3. Domestic Violence
 4. Sexual Assault
- **Sexual Intercourse:** vaginal or anal penetration by a penis, object, tongue or finger, and oral copulation (mouth to genital contact or genital to mouth contact), no matter how slight the penetration or contact.

- **Sexual Misconduct:** All sexual activity between members of the Southwest Tech community must be based on Affirmative Consent. Engaging in any sexual activity without first obtaining Affirmative Consent to the specific activity is Sexual Misconduct, whether or not the conduct violates any civil or criminal law. Sexual activity includes, but is not limited to, kissing, touching intimate body parts, fondling, intercourse, penetration of any body part, and oral sex. It also includes any unwelcome physical sexual acts, such as unwelcome sexual touching, Sexual Assault, Sexual Battery, Rape, and Dating Violence. When based on Gender, Domestic Violence or Stalking also constitute Sexual Misconduct. Sexual Misconduct may include using physical force, violence, threat, or intimidation, ignoring the objections of the other person, causing the other person's intoxication or incapacitation through the use of drugs or alcohol, or taking advantage of the other person's incapacitation (including voluntary intoxication) to engage in sexual activity. Men as well as women can be victims of these forms of Sexual Misconduct. Sexual activity with a minor is never consensual when the Complainant is under 18 years old, because the minor is considered incapable of giving legal consent due to age.
 - **Sexual Assault** is a form of Sexual Misconduct and is an attempt, coupled with the ability, to commit a violent injury on the person of another because of that person's Gender or sex.
 - **Sexual Battery** is a form of Sexual Misconduct and is any willful and unlawful use of force or violence upon the person of another because of that person's Gender or sex as well as touching an intimate part of another person against that person's will and for the purpose of sexual arousal, gratification, or abuse.
 - **Rape** is a form of Sexual Misconduct and is non-consensual sexual intercourse that may also involve the use of threat of force, violence, or immediate and unlawful bodily injury or threats of future retaliation and duress. Any sexual penetration, however slight, is sufficient to constitute Rape. Sexual acts including intercourse are considered non-consensual when a person is incapable of giving consent because s/he is incapacitated from alcohol and/or drugs, is under 18 years old, or if a mental disorder or developmental or physical Disability renders a person incapable of giving consent. The Respondent's relationship to the person (such as family member, spouse, friend, acquaintance or stranger) is irrelevant. (See complete definition of Affirmative Consent above.)
 - **Acquaintance Rape** is a form of Sexual Misconduct committed by an individual known to the victim. This includes a person the victim may have just met; i.e., at a party, introduced through a friend, or on a social networking website. (See above for definition of Rape.)
- **Student:** For the purposes of the Title IX / Sexual Assault Grievance Process, an individual who is participating in or attempting to participate in an education program or activity of the Southwest Wisconsin Technical College.
- **Stalking:** (VAWA Definition): Stalking means engaging in a repeated Course of Conduct directed at a specific person that would cause a Reasonable

Person to fear for his/her or others' safety or to suffer Substantial Emotional Distress. For purposes of this definition:

- **Course of Conduct** means two or more acts, including but not limited to, acts in which the stalker directly, indirectly, or through Third Parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property;
- **Reasonable Person** means a reasonable person under similar circumstances and with the same Protected Status(es) as the Complainant;
- **Substantial Emotional Distress** means significant mental suffering or anguish that may, but does not necessarily require medical or other professional treatment or counseling.
- **Supportive Measures:** individualized services reasonably available that are non-punitive, non-disciplinary, and not reasonably burdensome to the other party while designed to ensure equal educational access, protect safety, or deter sexual harassment.
- **Title IX Coordinator:** Campus authority tasked with complying with Title IX provisions.
- **Title IX Investigator:** Investigator means the person tasked by a Campus with investigating a Complaint
- **Quid Pro Quo:** Quid pro quo sexual harassment exists when there are: unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature; and submission to or rejection of such conduct results in adverse educational or employment action.

Authority and Jurisdiction

The College will respond when sexual or gender discrimination, sexual harassment or sexual misconduct occurs in a college educational program or activity, on-campus or off-campus, against a person in the United States. Education program or activity includes locations, events, or circumstances over which the College exercised substantial control over both the respondent and the context in which sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by a postsecondary institution. The College's response begins when the Title IX Coordinator or other official with authority to institute corrective measures receives actual knowledge of a potential infraction.

Public Dissemination of Information

The College will post the following information on its website to allow for public access and review:

- The College's Title IX Policy
- Training Materials used to train the Title IX Response Team
- Contact information for the Title IX Coordinator
- Information on how to report allegations of gender discrimination and sexual misconduct

Prohibited Behaviors

Upon receipt of actual knowledge or a formal complaint, the College will promptly investigate all allegations of sexual or gender discrimination, including sexual harassment and sexual misconduct. The following examples will serve as a guide for what type of infractions may require investigation:

Gender Discrimination

- **Gender Discrimination is defined as the following by Title IX:**

- Discrimination or harassment based upon one's gender (sex)
- Unfair treatment, attitudes, or behaviors towards an individual based upon their gender (sex)
- Gender identity discrimination as covered by Title VII
- Disproportionate athletic programs or activities offered to all genders in relationship to the college's enrollment

- **Examples of Gender Discrimination**

- Gender-based bullying
- Derogatory or sexist remarks
- Gender discrimination in an activity, athletics, program, office, or classroom
- Pregnancy-based discrimination

Sexual Harassment

- **Sexual Harassment is defined as the following by Title IX:**

- Unwanted sexual behavior, advances, or requests for favors
- Unwelcomed verbal, visual, or physical sexual conduct
- Offensive, severe, and/or frequent remarks about a person's sex
- Harassment of a sexual nature which interferes with an individual's right to an education and participation in a program or activity

- **Examples**

- Stalking or obscene phone calls, texts, emails, or gestures
- Sexually suggestive jokes, whistles, catcalls, or innuendos
- Inappropriate touching
- Intimidation

Sexual Misconduct

- **Sex Violence is defined as the following by Title IX:**

- Sexual abuse or assault, battery, or coercion
- Unwanted sexual contact that stops short of rape or completed rape
- Use of force or manipulation of unwanted sexual activity
- Physical acts where a person is incapable of giving consent or is against a person's will

- **Examples**

- Sexual assault, battery, or coercion
- Attempted or completed rape
- Inappropriate touching
- Physical and/or aggressive sexual advances
- Non-consensual sexual contact

- Non-consensual sexual intercourse
- Sexual Exploitation
- Sexual misconduct (as defined in this policy)

Retaliation

- **Retaliation is defined as the following by Title IX:**

- A strike back in response to another's action or accusation
- A form of revenge or reaction because of a filed complaint against a person
- Refusal to promote, advance, or accurately support/qualify a person due to a complaint filed

- **Examples**

- Demotion or prohibiting advancement due to a filed complaint
- Firing, loss of benefits, or the like due to a filed complaint
- Unfair treatment or discrimination due to a filed complaint

Hostile Environment

- **Hostile Environment is defined as the following by Title IX:**

- A situation of discriminatory or sexual nature that has occurred and created a adverse setting
- An intimidating or offensive environment that causes a person to be fearful
- A setting that denies, limits, or interferes with a person's ability to participate in or benefit from a program, activity, or job

- **Examples**

- Bullying, abusive or intimidating comments and actions
- Intimidating or offensive comments that alter the conditions of a person's work, classroom, team, or program environment
- Continual offensive comments or surroundings of a discriminatory or sexual nature

Additionally, the following acts are strictly prohibited and are considered Title IX violations when the basis of the conduct is directed at person's sex or gender:

- Threatening or causing physical harm, extreme verbal abuse, or other conduct which threatens or endangers the health or safety of any person;
- Discrimination, defined as actions that deprive other members of the community of educational or employment access, benefits or opportunities on the basis of gender;
- Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another;
- Hazing, defined as acts likely to cause physical or psychological harm or social ostracism to any person within Southwest Tech community, when related to the admission, initiation, pledging, joining, or any other group-affiliation activity (as defined further in the Hazing Policy);

- Bullying, defined as repeated and/or severe aggressive behavior likely to intimidate or intentionally hurt, control or diminish another person, physically or mentally (that is not speech or conduct otherwise protected by the 1st Amendment).
- Violence between those in an intimate relationship to each other;
- Stalking, as defined in this policy
- Intimidation or harassment of family members, witnesses or associates of the complainant in a Title IX investigation.

Applicable Wisconsin Statutes

In examining allegations of sexual misconduct, it is important to consider the potential that the allegations rise to the level of criminal conduct. The following list of Wisconsin Sexual Assault statutes is not all-inclusive and other conduct not covered under these specific statutes may be considered a criminal offense. Section 940.225 of the Wisconsin Statutes created four degrees of sexual assault. The degrees of sexual assault are based upon the amount of force used by the perpetrator and the harm done to the victim. Section 948.02 regards age of the victim. First, second and third degree sexual assaults are felonies; fourth degree sexual assault is a misdemeanor.

First Degree Sexual Assault: A person can be imprisoned not more than 40 years for committing first degree sexual assault. This includes:

- Sexual intercourse or sexual contact without consent which inflicts great bodily harm or pregnancy, or
- Sexual intercourse or sexual contact without consent accomplished by using or threatening to use a dangerous weapon, or
- Sexual intercourse or sexual contact without consent while aided by one of more persons by use of threat of force or violence, or
- Sexual intercourse or sexual contact, with or without consent, with a person under the age of 13.

Second Degree Sexual Assault: A person can be imprisoned not more than 20 years and/or fined not more than \$10,000 for committing second degree sexual assault. This includes:

- Sexual intercourse or sexual contact without consent through the use or threat of violence, or
- Sexual intercourse or sexual contact without consent which causes injury, including illness, disease or impairment of a sexual or reproductive organ, or mental anguish requiring psychiatric care, or Sexual intercourse or sexual contact with a person known by the perpetrator or be unconscious or mentally ill or under the influence of an intoxicant to a degree which renders that person incapable of appraising the person’s conduct, or
- Sexual intercourse or sexual contact without consent while aided by one or more persons, or
- Sexual intercourse or sexual contact, with or without consent, with a person who has not attained the age of 16 years

Third Degree Sexual Assault: A person can be imprisoned not more than five years or fined not more than \$10,000 for committing third degree sexual assault. This includes:

- Sexual intercourse with a person without consent of that person, or
- Sexual contact with intentional penile ejaculation with a person without consent of that person.

Fourth Degree Sexual Assault: A person can be imprisoned not more than nine months in the county jail and/or fined not more than \$10,000 for committing fourth degree sexual assault. This includes:

- Having sexual contact with a person without that person's consent. Sexual contact means any of the following: Intentional touching, by the complainant or defendant, either directly or through clothing by the use of any body part or object, of the complainant's or defendant's intimate parts, if that intentional touching is either for the purpose of sexually degrading or humiliating the complainant, or sexually arousing or gratifying the defendant.

Consent: The law defines the word consent as words or overt actions by a person who is competent to give consent indicating a freely given agreement to have sexual intercourse or sexual contact.

Staff Roles and Responsibilities under Title IX

Title IX Response Team: The Southwest Tech Title IX Response Team will consist of the following assignments:

- Title IX Coordinator
- Title IX Deputy Coordinators
- Title IX Investigators
- Title IX Training & Resource Coordinator
- Title IX Advisors
- Decision-Makers
- Appeal Officer

Specific Roles and Responsibilities:

Title IX Coordinator

The Title IX Coordinator is the responsible employee of the College with major responsibility for Title IX compliance efforts. The Title IX coordinator's responsibilities are critical to the development, implementation, and monitoring of meaningful efforts to comply with Title IX.

The Title IX Coordinator has a responsibility to coordinate the College's efforts to comply with its obligations under Title IX and the Title IX regulations. These responsibilities include coordinating any investigations of complaints received pursuant to Title IX and the implementing regulations.

The tasks and responsibilities relating to the implementation and administration of the grievance process, which include, but are not limited to:

- Providing consultation and information regarding Title IX requirements to potential complainants
- Distribution of grievance forms to potential complainants
- Receipt of formal grievances and providing notification to complainants of receipt of the grievance
- Scheduling grievance hearings
- Moderation of grievance procedures
- Notification to all parties regarding grievance decisions
- Notification of complainants of the right and procedures of appeal
- Monitoring compliance of all requirements and time-lines specified in the grievance procedures
- Training of staff responsible for grievance procedures
- Maintenance of grievance and compliance records and files
- Provision of ongoing training, consultation, technical assistance, and information services regarding Title IX requirements, grievance issues, and compliance programs

Deputy Coordinator

The Title IX Deputy Coordinator will be responsible for overseeing the Title IX process in the event the Title Coordinator is absent, unavailable or a conflict of interest exists. The Title IX Coordinator may assign specific tasks to the Deputy Coordinator as necessary.

Training and Resource Coordinator

The Training and Resource Coordinator will be responsible for developing, delivering and monitoring all required Title IX Training for staff and students. Additionally, under the direction of the Title IX Coordinator, the Training and Resource Coordinator will be responsible for organizing and providing any necessary support services, including Sexual Assault Advocates, for the complainant and respondent during the course of the Title IX process.

Investigator

The Title IX Investigators will be responsible for conducting fair, impartial, thorough and timely investigations of all reported Title IX violations. The investigators will be responsible for gathering evidence, conducting interviews and reviewing policies to determine if an infraction has likely occurred using the preponderance of evidence standard.

Advisor

Any student or employee who is involved in the investigation of an alleged violation of the sexual misconduct related to Title IX has the right to have an advisor. An advisor will be provided by the College during the hearing process in the event the complainant or respondent does not have an advisor. The advisor has the following roles in regards to the Title IX process:

- An adviser is a single individual that the party chooses to accompany them to meetings with Title IX. This individual can be a friend, parent, family member, attorney, or any other person the student chooses.
- The party will need to sign an Authorization and Release form for the adviser to be present at any meeting. The form allows staff to speak freely about the party's case when the adviser is present. The party can revoke the release form in writing if they choose to no longer have the individual serve as their adviser or have access to their disciplinary matter.
- If the adviser is directly related to the case or if their presence poses a conflict of interest, Title IX staff may dismiss the adviser from a meeting. The adviser cannot be another student involved in the same referral either as an accused student, witness, or other person involved.
- The party can choose to change their adviser. Because the adviser serves to assist the party through the process, the party can choose to change their adviser. For a party to change a College provided advisor, that party must be able to demonstrate sufficient grounds for bias or conflict of interest. Under these circumstances, the party must submit the request in writing to the Title IX Coordinator.

Decision-Makers

The individual that will issue a written determination regarding responsibility with findings of fact, conclusions about whether the alleged conduct occurred, rationale for the result as to each allegation, any disciplinary sanctions imposed on the respondent, and whether remedies will be provided to the complainant. Separate decision-makers will be needed in the event of an appeal hearing.

Appeal Officer

The campus authority designated with reviewing appeals from complainants and respondents. This individual cannot have any prior knowledge or participation in the case prior to receiving the appeal.

Sex Assault Advocate

Sexual Assault Victim's Advocate refers to third party professionals appointed to support Complainants reporting Sexual Misconduct. They must be certified and have received specialized training to provide advice and assistance, including but not limited to the provision of information about available options in the Complaint, law enforcement, legal, and medical processes, and with emotional and decision making support. Sexual Assault Victim's Advocates may serve as the Complainant's Advisor and assist in seeking services. They are committed to maintain the highest possible level of confidentiality permissible under state and federal law in their communications with the persons they assist. Sexual Assault Victim's Advocates are appointed based on experience and demonstrated ability to effectively provide services to victims/survivors/Complainants.

Procedures for Investigating Title IX Infractions Involving Sexual Discrimination, Sexual Harassment and Sexual Misconduct

Upon receiving a complaint or report of a potential sexual discrimination, sexual harassment, or sexual misconduct infraction, the Title IX Coordinator will begin with an inquiry into the reported offenses, and pursue and investigation if appropriate. The actions of the Title IX Coordinator are focused on ensuring safety of the complainant and all parties, stopping the effects of the reported offenses, remedying the effects, and preventing the reoccurrence. Privacy will be maintained to the fullest extent possible with consideration for the totality of the circumstances and the safety of the Southwest Tech Community. Southwest Tech will consider the concerns and rights of both the reporting party and the responding party. Southwest Tech reserves the right to take whatever measures it deems necessary in response to an allegation of sexual misconduct in order to protect employee and students' rights and personal safety.

Reporting

Any person may report sex discrimination, including sexual harassment in person, by telephone, by mail, by e-mail, or by online reporting systems using the Title IX Coordinator's contact information, or by any other means that results in the Title IX Coordinator receiving a person's verbal or written report. This report can be made at any time, including during non-business hours, by using the contact and reporting methods provided by the College.

The Title IX Coordinator's contact information and reporting procedures will be prominently displayed on the College website. This information must be provided to the following:

- Staff and Students
- Applicants for Admission and Employment
- Parents and Legal Guardians of elementary and secondary school students
- Any unions conducting business with the College

Any College staff member receiving a report, either directly from a student or indirectly from a third-party, must report the potential violation to the Title IX Coordinator as soon as possible.

When A Report Is Made:

- All reports are directed to either the Title IX Coordinator or a Deputy Title IX Coordinator. This staff member will review the complaint and determine if the case falls under the guidelines of Title IX procedures. If so, he/she will coordinate an investigation. If necessary, a mutual no-contact order between the complainant and respondent will be issued by the Title IX Coordinator. This helps to ensure the integrity and privacy of the process. In addition, reasonable accommodations to increase the complainant safety and well-being on campus will be considered.

- To require a Title IX response from the College, the following must be present:
 - It is determined that the allegations of conduct meet the criteria for sexual harassment as defined under Title IX, including one of the following behaviors:
 - A College employee conditioning education benefits on the participation in unwelcome sexual conduct (i.e., *quid pro quo*)
 - Unwelcome conduct that a reasonable person would determine is so severe, pervasive and objectively offensive that it effectively denies a person equal access to the College's education program or activity
 - Meets one of the following offenses:
 - Sexual Assault (As defined in the Clery Act)
 - Dating Violence (As defined in the Violence Against Women's Act)
 - Domestic Violence (As defined in the Violence Against Women's Act)
 - Stalking (As defined in the Violence Against Women's Act)
 - The alleged conduct occurred against a person in the United States
 - The alleged conduct occurred as part of a College educational program or activity.
 - At the time of the formal complaint, the complainant must be participating in or attempting to participate in the education program or activity of the college in which the formal complaint is filed.
- If it is determined that the allegations fall under the provisions of Title IX, the Title IX Coordinator will meet with the complainant to get a formal complaint signed
 - In the event that the complainant is unable or unwilling to sign a formal complaint, and the Title IX Coordinator determines that the allegations pose a substantial risk of harm to the campus community, the Title IX Coordinator can sign the formal complaint.
- If it is determined that the allegations ***DO NOT*** fall under the provisions of Title IX, the following will occur:
 - Violations of the Student Code of Conduct that do not meet the provisions for Title IX will be referred to the Student Conduct Process outlined in the Southwest Tech Student Handbook
 - Violations of the Southwest Tech Employee Handbook will be referred to Human Resources for additional review.
 - Accusations of Gender Discrimination will be referred to Human Resources for additional review.

Once a formal complaint has been submitted, the College's response begins and generally follows the steps below:

1. **Review of Allegations:** If the allegations do not meet the criteria for Title IX Sexual Harassment and Misconduct, the Title IX Coordinator will refer the allegations to the appropriate College authority for review and

disposition. If the allegations meet Title IX criteria, the steps outlined below will be pursued.

2. **Notification of Complaint and Allegations:** A written formal complaint must be submitted, and the respondent must receive notice of the allegations.
3. **Investigation:** An investigator will be appointed to handle the matter and investigation will be conducted. In most cases, the investigation will include the gathering of evidence and the interviewing of witnesses.
4. **Report:** The investigator's initial report will be shared with each party before it is finished. At that point, they will be given an opportunity to respond. After the responses are received and reviewed, a final report of the investigation will be issued.
5. **Resolution**
 1. **Informal Resolution:** In certain cases, if the Title IX Coordinator deems appropriate, and all parties agree, the case may be resolved through informal means.
 2. **Formal Grievance Hearing:** In situations where an informal resolution is not appropriate, a hearing board will be convened to review the case. Parties will have an opportunity to provide statements and evidence to the panel.
 1. **Decision:** The hearing board must determine if the respondent violated the institution's rules by a preponderance of the evidence. If the board finds that a violation occurred, the board will need to decide on the appropriate sanctions.
 3. **Dismissal:** The matter may be dismissed by either mandatory or discretionary means.
6. **Appeal:** The parties have the opportunity to pursue an appeal of the board's decision or a dismissal.

Response Timeline: The following are general response timelines that the Title IX Coordinator will attempt to follow to ensure a reasonable response and resolution to Title IX cases:

- **Initial Response to Complainant:** Upon receipt of actual knowledge, the Title IX Coordinator or designee will make contact with the complainant and offer supportive measures as soon as possible.
- **Investigation Initiation:** Investigation may begin immediately upon receipt of a signed Formal Complaint. Interviews will begin a minimum of (5) days after each party receives written notification of the investigation.
- **Investigation Review:** Following the conclusion of the investigation, and prior to the Final Investigator's Report, each party will have (10) days to review and offer a written response to the evidence gathered during the investigation.
- **Final Investigative Report Response:** Following the receipt of the final investigator's report, all parties will have a minimum of (10) days to respond prior to a formal grievance procedure.

- **Student Conduct Hearing Report:** The Decision-Maker must issue a written finding within 48 hours of the conclusion of the hearing.
- **Appeal:** Parties will have (10) days to request an appeal following dismissal or decision from the Decision-Maker.

Procedural Requirements and Considerations for Sexual Misconduct that meets TITLE IX Criteria

Conflict of Interest or Bias

Any member of the Title IX Response Team must report any potential conflicts of interest or bias to the Title IX Coordinator as soon as that member becomes aware of the potential conflict. Should a complainant or respondent claim that a member has conflict of interest or bias, the party must submit this concern in writing to the Title IX Coordinator for review. The Title IX Coordinator will evaluate each potential conflict of interest or bias on a case-by-case basis and determine if the response team member will continue in his/her role. Notice of the decision will be made to all parties involved. All determinations made by the Title IX Coordinator must be documented in writing and preserved with all required case documentation.

Mandatory Reporting, Confidentiality, and Privacy

- **Mandatory Reporting:** All Southwest Tech employees are considered responsible employees and are expected to report actual or suspected discrimination or harassment to appropriate officials, though there are some limited exceptions. On campus, the Licensed Professional Counselor may maintain confidentiality - meaning they are not required to report actual or suspected discrimination or harassment to appropriate Southwest Tech officials. This employee will maintain confidentiality except in extreme cases of immediacy of threat or danger or abuse of a minor. Employees must share all details of the reports they receive.

Failure of an employee to report an incident or incidents of sex or gender harassment or discrimination of which they become aware, is a violation of Southwest Tech policy and is subject to disciplinary action ranging from a warning up to and including termination of employment.

- **Confidentiality & Privacy:** Information received by Title IX and shared with a student will be handled in accordance with the regulations established by the Family Educational Rights and Privacy Act (FERPA). If a reporting party does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal resolution to be pursued, the reporting party may make such a request

to the Title IX Coordinator or Deputy Coordinator in writing, who will evaluate that request in light of the duty to ensure the safety of the campus and comply with federal law. In cases where the victim requests confidentiality and the circumstances allow Southwest Tech to honor that request, Southwest Tech will offer interim supportive measures and remedies to the victim and the community, but will not otherwise pursue formal action. In cases indicating pattern, predation, threat, weapons and/or violence, Southwest Tech will likely be unable to honor a request for confidentiality.

Making a formal complaint still affords privacy to the reporter, and only a small group of officials who need to know will be told, including but not limited to: local law enforcement, and the Behavior Intervention Team. Information will be shared as necessary with investigators, witnesses and the responding party. The circle of people with this knowledge will be kept as tight as possible to preserve a reporting party's rights and privacy.

Where privacy is not strictly kept, it will still be tightly controlled on a need-to-know basis. Dissemination of information and/or written materials to persons not involved in the resolution process is not permitted. Violations of the privacy of the reporting party or the responding party may lead to conduct action by Southwest Tech. If the initial complaint is found to have reasonable cause to warrant further action, the respondent will be notified of the name of the complainant. Sexual misconduct is a serious offense and the responding party has the right to know the identity of the reporting party.

In all resolutions of a formal complaint, all parties will be informed of the outcome. In some instances, the administration also may choose to make a brief public announcement of the nature of the violation and the action taken, without using the name or identifiable information of the alleged victim. Certain Southwest Tech administrators will be informed of the outcome within the bounds of student privacy (e.g., the President of Southwest Tech, Dean of Students, Director of Facilities).

- **Federal Timely Warning Reporting Obligations:**

Victims of sexual misconduct should also be aware that Southwest Tech administrators must issue immediate timely warnings for incidents reported to them that are confirmed to pose a substantial threat of bodily harm or danger to members of the campus community. Southwest Tech will make every effort to ensure that a victim's name and other identifying information are not disclosed, while still providing enough information for community members to make safety decisions in light of the danger.

Due Process Rights

Due process is a fundamental element of any Title IX investigation. Southwest Tech will strive to offer a fair, impartial and unbiased process for all parties involved. Southwest Tech never assumes a party is in violation of Southwest Tech policy. Campus disciplinary proceedings are conducted to take into account the totality of all evidence available, from all relevant sources. All accused are considered innocent until proven guilty. For all resolutions under this policy, the evidentiary standard remains the preponderance of evidence

All parties will be awarded the following rights during a Title IX Investigation:

- To receive a prompt, fair and impartial investigation.
- To receive information and ask questions pertaining to the Title IX Investigation process.
- To have an Adviser present during all meetings.
- To chose not to actively participate in the investigation process, if you are the Complainant party.
- To file a complaint with local law enforcement authorities.
- To be informed of and have access to campus services, including confidential resources.
- To have your Constitutional rights, including freedom of speech and academic freedom protected
- **Complainant:** A reporting party has the right, and can expect, to have reports taken seriously by Southwest Tech when formally reported, and to have those incidents investigated and properly resolved through these procedures. The following is a list of rights afforded to the complainant in a Title IX incident and list of the College’s responsibilities in relationship to the needs of the complainant:
 - You will be treated respectfully by college officials and representatives at all times regardless of who you are.
 - You will not be discouraged from reporting an attack or violation.
 1. You will be informed of the outcome of any hearing or investigation involving sexual assault, without any conditions.
 - You will be notified of your reporting options, including the right to not report if that is your choice, and the assistance of campus personnel in support of your choice.
 - You will be provided with supportive measures and notified regarding options of counseling and other services on campus or in the community.
 - You will have the right to request a change in on-campus living conditions if the situation warrants and options are available.
 - You have the right to have irrelevant prior history admitted in campus investigations.
 - Both accuser and accused have the right to have others present as advisors during any campus hearing.
 - You have the right to pursue formal resolution options over informal options.
 - You may make a victim impact statement and to have that statement heard by the decision maker.

- You have the right to be free from intimidation and retaliation as the accuser.
- You have the right to have your complaint heard and responded to quickly and confidentially by college officials.
- You have the right to appeal the results according to the standards for appeal found in the Southwest Tech [Student Handbook](#).

- **Witness:** Any witness in a Title IX investigation will have the following rights:

- To have an Adviser present during all meetings.
- To receive information and ask questions pertaining to the Title IX Investigation process.
- To be informed of and have access to campus services, including confidential resources, related to sexual violence and discrimination.

- **Respondent**

- The accused is considered innocent until proven guilty
- You have the right to have an advisor with you at all times throughout the process.
- You have the right to present evidence and witnesses on your behalf.
- You have the right to a formal hearing in which you can testify and cross-examine witnesses.
- The college will provide a transparent process and will provide written allegations, a written decision and a written rationale to support the decision at the conclusion of the process

SUPPORTIVE MEASURES

Upon receipt of actual knowledge, the Title IX Coordinator will confidentially contact the complainant and offer supportive measures. These supportive measures will be customized as appropriate to meet the needs of the complainant in order to restore or preserve the equal right to equal access to education.

Supportive measures cannot be punitive or disciplinary against any party and cannot unreasonably burden the respondent or alter or affect the respondent's presumption of innocence throughout the investigation and resolution process.

Potential supportive measures include, but are not limited to the following:

- Moving respondent's seat in class
- Alternate housing arrangements
- Modified work schedules
- Course related adjustments (i.e., deadline extensions)
- Revised class schedule
- Counseling
- Leaves of absence

NO CONTACT ORDERS (NCOs)

Both parties may agree to mutually enter in to a No Contact Order. The provisions must be mutually agreed upon and can be revoked by either party at any time.

The Title IX Coordinator is authorized to issue an Emergency No Contact Order (NCO) prohibiting contact between students when there exists a substantial and reasonable concern that physical or psychological harm may result from such contact.

The college will consider all facts and circumstances that may be relevant to whether an Emergency NCO should be issued, including, but not limited to, the following factors:

- When there are allegations, threats, or evidence of physical violence by one student against another;
- When there are allegations, threats, or evidence of emotional abuse or harassment by one student of another;
- When there is a substantial risk of emotional harm from continued contact between students;
- When continued contact between students may have a material impact on campus disciplinary proceedings; and
- When there are of allegations of serious college policy violations.

All NCOs shall provide that neither student may have contact with the other. "Contact" includes, but is not necessarily limited to, in-person contact, telephone calls, email, texts and other forms of electronic communication, social media-based messages or postings, and third party communications including through proxies.

NCOs may include additional protective measures or other terms specific to the safety, well-being, or other needs of either or both students subject to the NCO, when deemed necessary by the College. Any additional terms shall be expressly stated in the NCO. Additional protective measures or other terms need not be reciprocal. They may include, but are not limited to, the following:

- Restricting a student from being in close proximity to the other student;
- Restricting a student's access to certain campus locations, including the other student's residence hall;
- Restricting the times a student may be present in on-campus dining facilities;
- Requiring that the students not be enrolled in the same academic course(s); and
- Requiring that the students not participate in the same co-curricular or extra-curricular activities.

Investigation Process

There are five phases to the investigation process.

Phase 1: Notification of Investigation

The Title IX Coordinator sends formal written communication to both the Complainant and the Respondent. The communication includes information about the investigation process including the allegations to be investigated, what policy and what sections of the policy against which the allegations are assessed, the name of the investigators, the rights the Complainant and Respondent have throughout the investigation process, a caution regarding retaliation, and any other information that is pertinent to the investigation of that particular case.

Phase 2: Information Gathering

The investigators gather information related to the allegations. Such information may include documents, electronic materials (e.g., texts, social media posts, emails, phone logs), video and audio recordings, interviews with the Complainant, the Respondent, and witnesses. During this phase of the process, the Complainant and Respondent are each provided an opportunity to provide information to the investigators to review, to interview with the investigators and to provide the names of witnesses for the investigators to interview.

Phase 3: Information Review

At the close of the information gathering phase, both the Complainant and the Respondent will each be provided an opportunity to review and respond to the information that the investigators have gathered and will use to determine what happened.

Phase 4: Report Writing, Analysis, and Determination of Facts and Policy

After the Complainant and Respondent have been given an opportunity to review and respond to the information gathered by the investigators, the investigators review, weigh and analyze the information using the “preponderance of evidence” standard. This means the investigator reviews the information to determine whether it was “more likely than not” that the alleged conduct occurred. After the investigators review and analyze the information, the investigators write a formal investigation report. The report contains the allegations that were investigated, the applicable policy against which the allegations were reviewed, the individuals contacted and interviewed, a list of the documents and materials gathered, reviewed and analyzed, a summary of the statements of the individuals interviewed, an analysis of the statements and information gathered and reviewed, and the investigator’s conclusions and determinations about what happened and whether the allegations have been substantiated.

Phase 5: Notification of the Outcome of Investigation

After the investigators complete the written report, the Title IX Coordinator sends formal written communication to both the Complainant and the Respondent. The communication includes information about the outcome of the investigation. Evidence directly related to the allegation will be provided, in either electronic or hard copy form. An investigative report prepared by the

investigators that fairly summarizes all facts and evidence will be provided to both parties. When appropriate, such as when the investigator determines that a College policy has been violated, the notice of outcome letter will also include information regarding next steps in the Title IX process. In the event that it is determined a hearing is necessary, a minimum of 10 days will be given to all parties to inspect and review the evidence and prepare for the hearing.

Critical Investigation Concepts

Procedural Requirements

The following is a list of procedural requirements governing the investigation process:

- The required level of evidence to determine responsibility for all cases will be a preponderance of evidence.
- The burden of proof and gathering of evidence is the responsibility of the College
- The College will provide equal opportunity for all parties to present fact and expert witnesses and other evidence
- The College will not restrict the ability of the parties to discuss the allegations and gather evidence
- Each party has the same opportunity to select an advisor of the party's choice to be present at all hearings. The advisor can be an attorney, if the party chooses.
- All notices of interviews, meetings and hearings must be provided to the required parties in a written format
- The College may consolidate formal complaints into one investigation if such complaints arise out of the same fact circumstances.

Prohibited Use of Certain Evidence

Certain evidence is prohibited from use during an investigation, to include the following:

1. A party's medical, psychological or similar treatment records without that party's voluntary, informed and written consent.
2. Irrelevant questions or evidence pertaining to a complainant's prior sexual behavior, unless the questions or evidence are intended to prove consent or that someone other than the respondent committed alleged misconduct.

Consensual Relationships

When examining allegations of sexual misconduct and harassment, consent is a critical component. Affirmative consent is required in all sexual relationships related to this policy. There are many factors and considerations to evaluate when determining consent. The following are key factors when determining the presence of consent in a sexual encounter:

- In order for individuals to engage in sexual activity of any type with each other, there must be clear, knowing and voluntary consent prior to and during sexual activity.
- Consent is sexual permission.

- Consent can be given by word or action, but non-verbal consent is not as clear as talking about what you want sexually and what you don't.
- Consent to some form of sexual activity cannot be automatically taken as consent to any other form of sexual activity.
- Silence--without actions demonstrating permission-- cannot be assumed to show consent.

Force and coercion in any form in sexual relationships is a clear violation of this policy and most likely a violation of Wisconsin Criminal law. Coercion occurs when a person unreasonably pressures another person into engaging or participating in sexual activity. Consent cannot be given when a person is incapacitated. The use of drugs or alcohol can raise doubts about consensual activity, even in circumstances when a person is not incapacitated by their use.

A person will be considered unable to give valid consent if they cannot fully understand the details of a sexual interaction (who, what, when, where, why, or how) because they lack the capacity to reasonably understand the situation. Individuals who consent to sex must be able to fully, knowingly and clearly understand what they are agreeing to and doing. If a person is saying "no", they are clearly demonstrating a lack of consent. In some circumstances when a person says "yes", that person may not be consenting to sexual activity if the response was forced or coerced. Anything but a clear affirmative consent is equivalent to an individual saying "no".

There are inherent risks in any romantic or sexual relationship between individuals in unequal positions (such as teacher and student, supervisor and employee). These relationships may be less consensual than perceived by the individual whose position confers power. The relationship also may be viewed in different ways by each of the parties, particularly in retrospect.

Furthermore, circumstances may change, and conduct that was previously welcome may become unwelcome. Even when both parties have consented at the outset to a romantic or sexual involvement, this past consent may not remove grounds for a later charge of a violation of applicable sections of the faculty/staff handbooks.

Southwest Tech does not wish to interfere with private choices regarding personal relationships when these relationships do not interfere with the goals and policies of Southwest Tech. For the personal protection of members of this community, relationships in which power differentials are inherent (faculty-student, staff-student, administrator-student) are generally discouraged.

Consensual romantic or sexual relationships in which one party maintains a direct supervisory or evaluative role over the other party are unethical and prohibited as a condition of employment at the College. Therefore, persons with direct supervisory or evaluative responsibilities who are involved in such relationships must bring those relationships to the timely attention of their supervisor. This will result in the necessity to remove the employee from the

supervisory or evaluative responsibilities, or shift the student out of being supervised or evaluated by someone with whom they have established a consensual relationship. This includes Resident Assistants and students over whom they have direct responsibility.

While no relationships are prohibited by this policy, failure to self-report such relationships to a supervisor as required can result in disciplinary action for an employee.

RESOLUTION

Following the conclusion of the investigation and the submission of the final investigator's report, the Title IX Coordinator will determine what the appropriate option for resolution

INFORMAL Resolution Process

Sex discrimination comes in a wide range of different forms from modest, but still impactful incidents, to felony criminal acts. Title IX allows certain acts of discrimination or harassment to be addressed through an informal resolution process, providing both parties agree to the process through voluntary, informed and written consent. The College cannot require the parties to participate in an informal resolution process and may not offer this option until a formal complaint is filed. The informal resolution process is a fully voluntary, structured interaction between the parties that is designed to help them address and resolve an issue at the earliest stage possible. Informal resolutions are flexible meaning the process can move forward in many different ways. As a general rule an informal complaint process:

- Will not feature a formal hearing process
- Can be kept fully confidential; and
- Will not be referred for official disciplinary action if an agreement between the parties and the school is reached.

In recognition that a wide spectrum of behaviors can constitute violations of College policies, the Title IX Coordinator may resolve reports informally and appropriately, based on the circumstances. Informal resolutions generally are pursued when both the complainant and respondent, having been fully informed of all available options, have explicitly made that choice. An informal resolution process is voluntary, and either party can ask to end the informal resolution process at any time before its completion. If an informal resolution process is ended by request, any information obtained may be used in a subsequent formal resolution process and hearing. Once a complaint has been resolved through an informal resolution process, the matter will be closed. In all cases, the Title IX Coordinator will have discretion to determine whether or not informal resolution is appropriate to the circumstances.

Informal resolution is not appropriate in all cases. Informal resolution cannot be used to resolve allegations that an employee sexually harassed a student.

Informal processes generally cannot be used in cases involving allegations of sexual assault or dating violence. Beyond that, the victims of sex discrimination or sexual harassment should never feel pressured into using the informal process. It is a voluntary process meaning that either party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint at any time prior to an agreed upon resolution. If the informal complaint process does reach its completion, the matter will be deemed closed.

FORMAL Resolution/Grievance Process

The informal resolution process is simply not appropriate for all Title IX complaints. The victim of sex discrimination or sexual harassment may be better served by participating in a formal process. Informal resolution is not an option in allegations of misconduct directed at College staff or faculty.

If the formal resolution/grievance process is determined to be the most appropriate, the process will follow the guidelines set forth in this policy.

Dismissal of Complaint

For the purposes of Title IX, the College will dismiss allegations under the following criteria:

1. It is determined that the allegations of conduct do not meet the criteria for sexual harassment as defined under Title IX
2. The alleged conduct did not occur against a person in the United States
3. The alleged conduct did not occur as part of a College educational program or activity.

Dismissal under these factors is only for Title IX purposes and does not prohibit the College from addressing the conduct under other policies including the Student Code of Conduct.

The College may elect to dismiss allegations as part of a formal complaint under the following criteria:

1. The complainant informs the Title IX Coordinator in writing that the complaint wishes to withdraw the complaint of allegations therein
2. The respondent is no longer enrolled or employed by the College
3. Specific circumstances prevent the school from gathering sufficient evidence to reach a determination

The College must provide each party with written notification (in both mandatory and discretionary dismissals) citing the specific reasons for the dismissal.

FORMAL Resolution/Grievance Process

Adjudication Hearing

Overview of hearing process and procedures

1. The process must treat complainants equitably by imposing remedies any time a respondent is found responsible:
 - a. Remedies must be designed to maintain the complainant's equal access to education and may include the same individualized services that were initially offered as supportive measures
 - b. Remedies, in the event the respondent is found responsible, need not be non-disciplinary or non-punitive and need not avoid burdening the respondent.
2. The process must treat respondents equitably by not imposing disciplinary sanctions without following due process protections offered through the formal grievance process.
3. The Student Conduct Hearing is a closed hearing; it is not open to the public. The individuals who may appear before the Student Conduct Hearing Board are:
 - a. The complainant or *Title IX Coordinator
 - i. Where the Title IX Coordinator signs a formal complaint (in events where the alleged victim cannot or will not present his or her own complaint) , the Title IX Coordinator is not a complainant or party during the grievance process and must comply with all Title IX personnel to be free from conflicts and bias.
 - b. The respondent
 - c. Any individual serving as an approved Advisor
 - d. Title IX Coordinator
 - e. Title IX Investigators
 - f. Any individuals appearing as witnesses.
4. The Student Conduct Hearing is a live-hearing. Live hearings may be conducted with all parties physically present at the same geographic location, or at the College's discretion or request by either party, any or all parties, witnesses or other participants may appear at the live hearing through virtual means. This technology must allow the parties to clearly see and hear each other.
5. If the complainant or respondent does not have an advisor, the College will provide an advisor at no cost or charge. This advisor may be, but is not required to be, an attorney and will conduct all cross-examination questioning on behalf of that party.
6. Before and after giving testimony, witnesses may be excluded from the room or building where the hearing occurs.
7. The College will create an audio or audiovisual recording, or transcript, of any live hearing. This documentation must be preserved in accordance with the record keeping requirements of this policy.

Privacy Safeguard

All parties involved in a hearing are required to keep all information learned in preparation for the hearing, and at the hearing, private. No copies of documents provided are to be made or shared with any third parties. Any breach of this duty is subject to further disciplinary action by the College.

Student Conduct Hearing Procedures

The Title IX Coordinator will assign the Decision-Maker to oversee the hearing and issue a final resolution. The complainant and respondent will have the opportunity to state whether they feel the assigned Decision-Maker should not participate in the panel due to bias or any other reason which would prevent them from making a fair assessment of the evidence. The final decision on any such requests for recusal will be made by the Title IX Coordinator.

This Decision-Maker will hear the case and determine, based on the preponderance of the evidence, whether there has been a sexual misconduct violation by the student respondent. If the student respondent is found responsible, then the same Decision-Maker will also determine the sanction. The Decision-Maker is allowed to consult with the Title IX Coordinator when determining if proposed sanctions are aligned with other campus policies and procedures.

The Decision-Maker must review the Title IX Investigator's Report containing all pertinent information regarding the incident in question prior to the date of the hearing. Additional information may be offered in the form of written statements, documents, items, or oral information from the complainant, the respondent, and witnesses to the Title IX Coordinator for review. The information will be forwarded to the Decision-Maker once relevance to the case is established. The Decision-Maker must objectively evaluate all relevant evidence and avoid credibility determinations solely based upon a person's status as complainant, respondent or witness. The Decision-Maker must not use, rely on, or seek disclosure of information protected under a legally recognized privilege, unless the person holding such privilege has waived that privilege. If a party does not submit to cross-examination at the live-hearing, the Decision-Maker must not rely on any statement of that party or witness in reaching a determination regarding responsibility.

All questions on behalf of the complainant or respondent must be asked by that party's advisor. At no time will either party be able to directly question each other. The Decision-Maker will make determination as to the relevance of each question before allowing the person testifying to answer the question.

Notes may be taken by the participants in the hearing solely for their personal use. There will be a single verbatim recording made of the hearing which shall be the sole property of the Title IX Coordinator, and this recording will be available only for review by the complainant, respondent, or the College for the purpose of an appeal. The recording will not be released to any party nor will the Title IX Coordinator make copies. If copies are requested, the party interested must supply a transcriber at their cost to transcribe at the College under the supervision of Title IX Coordinator or his/her designee. The recording

will be maintained with the student conduct record. It will be discarded with the entirety of the record following the institutions record retention guidelines.

Prior to the hearing, the Title IX Coordinator will provide a list of witnesses to all parties that will be testifying on behalf of the complainant or respondent.

A hearing will be called to order by the Decision-Maker. The Decision-Maker will orally explain the hearing process and will provide an opportunity for all parties to ask procedural questions prior to initial statements and the presentation of information.

Hearing procedures:

1. **Opening Statements:** The Advisor for both the complainant and respondent will have the opportunity to make an opening statement. This is optional.
2. **Presentation of Final Investigator's Report and Evidence:** The Investigator that authored the final report will be called to provide a brief synopsis of the case, present evidence and explain findings of the investigation. The Decision-Maker will have the opportunity to ask the investigator questions at that time. Advisors may ask questions on behalf of the party being represented.
3. **Response from the Respondent:** After the Investigator is finished, the respondent's advisor will be given an opportunity to make a brief statement concerning the testimony from investigator. This is not meant to be a retelling of the event.
4. **Presentation of Complainant and Complainant Witness Testimony and Cross-Examination:** The Decision-Maker may hear from complainant and witnesses on behalf of the complainant.
 - The Decision-Maker may ask any relevant questions of the complainant and witnesses supporting the complainant
 - Following questioning by the Decision-Maker, the advisor for the respondent may cross-examine the witnesses
 - This cross-examination must be conducted directly, orally, and in real-time by the party's advisor. At no time can the respondent directly question the complainant.
 - The advisor may ask all relevant follow-up questions, including those challenging credibility of the witness.
 - Prior to answering any question from an advisor, the Decision-Maker must determine if the question is relevant and explain to the party's advisor asking any cross-examination questions any decision to exclude a question as not relevant.
5. **Presentation of Respondent Witness Testimony and Cross-Examination:** The Decision-Maker may hear from witnesses on behalf of the respondent.
 - The Decision-Maker may ask any relevant questions of the witnesses supporting the respondent

- Following questioning by the Decision-Maker, the advisor for the complainant may cross-examine the witnesses
 - This cross-examination must be conducted directly, orally, and in real-time by the party's advisor. At no time can the respondent directly question the complainant.
 - The advisor may ask all relevant follow-up questions, including those challenging credibility of the witness.
 - Prior to answering any question from an advisor, the Decision-Maker must determine if the question is relevant and explain to the party's advisor asking any cross-examination questions any decision to exclude a question as not relevant.

6. **Respondent Testimony (OPTIONAL):** The Decision-Maker may hear from the respondent.

- The Decision-Maker may ask any relevant questions of the respondent
- Following questioning by the Decision-Maker, the advisor for the complainant may cross-examine the respondent
 - This cross-examination must be conducted directly, orally, and in real-time by the party's advisor. At no time can the respondent directly question the complainant.
 - The advisor may ask all relevant follow-up questions, including those challenging credibility of the witness.
 - Prior to answering any question from an advisor, the Decision-Maker chair must determine if the question is relevant and explain to the party's advisor asking any cross-examination questions any decision to exclude a question as not relevant.

7. **Closing Statements:** At the conclusion of the presentation of all witnesses, the Advisors for the complainant and respondent will each be given a brief final opportunity to address any outstanding issues of fact and offering a brief closing statement in support of their party's position.

8. **Victim Impact Statement:** At the conclusion of the presentation of all the complainant may have his/her advisor present a victim's impact statement to the panel for review. This must be in writing. The chair may choose to read the statement aloud during the hearing. The statement must address how specifically the complainant's access to education has been impacted by this event.

9. **Deliberations:** At the conclusion of this process, the Decision-Maker will excuse everyone from the room and deliberate. At the conclusion of their deliberations, the Decision-Maker will ask the Title IX Coordinator to return, so the Decision-Maker may share their decision on the charge(s) and a sanction, should they find the respondent responsible.

10. **Final Report:** Following the hearing, the decision maker will issue a written "determination regarding responsibility." The respondent, complainant, and Title IX Coordinator will receive the decision in writing simultaneously. The document must include the following elements:

1. the allegations that could constitute sexual harassment;

2. a description of the procedural steps undertaken, including notifications to parties, interviews and site visits, methods used to gather evidence, and hearings;
3. findings of fact that support the determination regarding responsibility;
4. conclusions about the application of the institution's code of conduct to the facts;
5. an explanation regarding the result of each allegation, with a determination regarding responsibility, any sanctions (disciplinary actions) against the respondent, and any remedies to be provided to the complainant; and
6. procedures and basis for appeal.

Appeal Process:

Both parties have the right to request an appeal of the decision made by the Decision-Maker or the decision to dismiss the formal complaint. The appeal can only be based on one or more of the following grounds:

1. There is new information that was not known or available at the time of the decision that could affect the outcome of the matter
2. There was a procedural irregularity that affected the outcome of the matter
3. Title IX personnel had a conflict of interest or bias that may have affected the outcome of the matter.

Each party has 10 days following the receipt of the written decision to indicate their intention to appeal. Requests for appeal, with reasons, must be sent in writing to the Appeal Officer. Any new evidence or proof of a procedural lapse should be included in the request for Appeal Officer to review.

Upon receipt of an appeal, the Title IX Coordinator must notify the other party in writing of the appeal, including the nature of the appeal.

If the appeal is denied, the case is considered closed and the decision of the Decision-Maker stands. NO OTHER APPEAL process exists, including an appeal to College administration or the College's governing board.

If an appeal is granted, the below process will be followed:

1. Statements from both the complainant and respondent will be requested by the Appeal Officer or designee
2. An appeal Decision-Maker unfamiliar with the original hearing, will be assigned to facilitate the appeal
3. The appeal Decision-Maker will review any statements provided by the complainant and respondent, the recording of the original hearing, and any supplemental information gathered during the original hearing

The results of any appeal will be communicated simultaneously and in writing to the complainant, respondent, and Title IX Coordinator by the Appeal Officer.

In the cases of a granted appeal, the decision of the Appeal Decision-Maker will also be included. The appeal Decision-Maker has the option to uphold the original decision and sanction or request the case be reheard in its entirety. The latter will only be utilized in cases with significant procedural lapses that impacted the decision-making of the original hearing. The Appeal Decision-Maker will be required to complete a report to include the following information:

- The final decision
- Grounds and rationale for decision

The determination of responsibility made by the appeal Decision-Maker is final and binding.

Retaliation Protections

Neither the College or any person may retaliate against any other person for asserting that person's Title IX rights, filing a report or formal complaint, or either participating or refusing to participate in any Title IX proceeding.

The College must keep Title IX proceedings confidential except as permitted by FERPA or required by law.

A party does not retaliate simply by asserting the party's First Amendment rights. Additionally, charging a person with a code of conduct violation for filing materially false statements in bad faith in a Title IX proceeding is not retaliation.

PROCEDURES FOR ADJUDICATING EMPLOYEE TITLE IX CODE VIOLATIONS

Should the respondent be an employee of the College, the same process and standard of evidence will apply. If a determination of responsibility is made against an employee, the Decision-Maker may consult with the Director of Human Resources to determine appropriate sanctions in accordance with employment contracts and other College policies.

Disciplinary Sanctions

If it is determined through the investigation process that the complaint and allegations are a Title IX infraction, disciplinary sanctions will be imposed in accordance with existing Southwest Tech policies. For instances involving student misconduct or violations, the process set forth in the Southwest Tech Student Handbook will be the guiding policy. For instances involving Southwest Tech employees, the process set forth in the Southwest Tech Employee Handbook will be the guiding policy.

While Southwest Tech recognizes the necessity of objective standards, the College also recognizes the unique and subjective factors of each incident. Not all violations will be considered of equal severity, therefore, sanctions will be determined on a case-by-case basis in accordance with existing College Policies.

Southwest Tech reserves the right to impose different sanctions, ranging from verbal warning to expulsion, depending on the severity of the offense.

Initial response measures may include, but are not limited to, modification of living arrangements, no contact orders, interim suspension from campus pending a resolution, and reporting the matter to the local police. Common formal sanctions following the investigation process include, but are not limited to, the following:

- **Non-Consensual or Forced Sexual Contact** (no sexual intercourse occurred)
 - Any student found to have committed a violation of this policy involving non-consensual or forced sexual contact may receive sanctions ranging from probation to expulsion.
 - Any employee found to have committed a violation of this policy involving non-consensual or forced sexual contact may be suspended and/or terminated from employment.
- **Non-Consensual or Forced Sexual Intercourse**
 - Any student found to have committed a violation of this policy involving non-consensual or forced sexual intercourse may receive sanctions ranging from suspension to expulsion.
 - Any employee found to have committed a violation of this policy involving non-consensual or forced sexual intercourse may be suspended and/or terminated from employment.
- **Sexual Harassment or Sexual Exploitation**
 - Any student found to have committed a violation of this policy involving sexual harassment or sexual exploitation may receive sanctions ranging from warning to expulsion.
 - Any employee found to have committed a violation of this policy involving non-consensual or forced sexual intercourse may receive sanctions ranging from warning to termination.

Sanctions will be determined on a case-by-case basis and will take in to account the following aggravating or mitigating circumstances:

- The severity of the incident
- Previous disciplinary actions

The decision-making body reserves the right to broaden or lessen any range of recommended sanctions in the case of serious mitigating circumstances or egregiously offensive behavior. Neither the initial hearing officers nor any appeals body or officer will deviate from the range of recommended sanctions unless compelling justification exists to do so.

Documentation and Record Management

The College will create and preserve appropriate documentation of all Title IX-related cases in accordance with guidelines from the US Department of Education. The Title IX Coordinator will be responsible for ensuring the proper collection, preservation and maintenance of such records. Access to such

records will be secured in accordance with corresponding provisions and procedures of the College.

The College shall document receipt of all reports, and its response to each report through investigation, determination, adjudication, sanctioning, appeal, or other means. The College will maintain all relevant records regarding sexual harassment allegations and investigations for at least seven years. Relevant records include investigations and any required recording or transcription, determinations regarding responsibility, disciplinary actions, remedies provided, appeals, and informal resolutions.

For each report of sexual harassment or formal complaint, the College will document and maintain for seven years any supportive measures it provided, the basis on which it determined that its response was not deliberately indifferent, and measures that it took to restore or preserve access to its education program or activity. If the College did not provide supportive measures, documentation must be provided to explain why the response was not clearly unreasonable given the known circumstances.

The College will maintain for at least seven years all materials used to train the Title IX Coordinator, investigators, decision makers and persons who facilitate informal resolutions. All of these training materials also must be publicly available on the institution's website.

Training

- **Students**

- Student training will be developed, coordinated and delivered by the Title IX Training and Resource Coordinator.
- This training will be mandatory for all Southwest Tech students and offered at the beginning of each academic semester
- The training will consist of the following elements:
 - A statement that Southwest Tech prohibits discrimination and harassment and sexual misconduct
 - The definition and explanation of prohibited behaviors
 - The definition of consent, with reference to sexual offenses.
 - "Safe and positive" options for bystander intervention an individual may take to "prevent harm or intervene" in risky situations.
 - Recognition of signs of abusive behavior and how to avoid potential attacks through prevention and awareness.
 - Methods to report dangerous and concerning behavior to the College
 - The reporting obligations of responsible employees;
 - Students' option to request confidentiality and available confidential advocacy, counseling, or other support services; and

- Their right to file a Title IX complaint with the school and to report a crime to campus or local law enforcement.

- **Staff**

- **Faculty, Administration, Support Staff and Student Employees:** All Southwest Tech staff will be required to complete annual Title IX and FERPA training prior to the conclusion of the first 8-weeks of the fall semester, or within 8 weeks of hire. This training will consist of a review of this policy, reporting and response requirements and rights and protections offered to students.
- **Title IX Response Team:** Southwest Tech will provide annual training to all members of the Title IX Response Team to ensure that the College is following best practices and in compliance with legal standards and expectations. The Title IX Coordinator will organize and deliver this training prior to the conclusion of the first 8-weeks of the fall semester. All members of the Title IX response team must receive initial training that is reflecting of their respective roles. All training documentation must be kept on file for a minimum of 7 years. All materials used to train Title IX response team members must be posted on the College website for public review and inspection. Additional training requirements are as follows:
 - All Title IX Response Team members must receive the following training:
 - The definition of sexual harassment under the Final Rule
 - The scope of the College's education program or activity
 - How to conduct investigations
 - How to conduct hearings, appeals and informal resolutions
 - How to serve impartially, to include:
 - How to void bias and conflict of interest
 - How to avoid prejudgment of facts
 - Decision-makers must receive documented training on the technology used in live-hearings.
 - Decision-makers and investigators must receive training on the following:
 - Issues of evidentiary relevance
 - How to apply rape shield legal protections to complainants
 - Training on the presumption that the respondent is not responsible for alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

Supportive Measures for Pregnant Students

Title IX prohibits sex discrimination, including discrimination based upon pregnancy and childbirth. The College will offer the following protections and supportive measures for pregnant students.

Non-discrimination and accommodations

Southwest Tech will provide assistance to students who are pregnant or have a pregnancy-related condition in the same manner as students with other temporary medical conditions. Students may be required to obtain a letter from their health care provider certifying fitness as a condition for participating in certain educational programs only when such certification is required of students who experience other temporary medical conditions requiring the attention of a health care provider.

Pregnancy-related impairments

Although pregnancy itself is not a disability, pregnancy-related impairments may qualify as disabilities under the Americans with Disabilities Act (ADA). Students experiencing such impairments may contact the Southwest Tech's Office of Disability Services to seek reasonable accommodations under the ADA.

Pregnancy-related absences

Southwest Tech will excuse medically necessary absences from programs for pregnancy and pregnancy-related conditions for as long a period of time as is deemed medically necessary by a student's health care provider. It is the student's responsibility to notify the instructor in advance in writing when practicable of any absence that is pregnancy-related, including prenatal appointments. A student seeking an extended absence under this policy shall provide thirty days advance notice to her instructor, when practicable. If a student's extended absence exceeds the date stated in her original required documentation, the student will need to provide a second letter from her health care provider stating the new beginning and ending dates and the medical necessity of the additional leave. A student seeking an extended absence is also encouraged to do the following: work with her advisor to review her academic plans and revise as needed, work with her instructors to develop a plan to complete missed work, and consult with the Office of Financial Aid to address any questions regarding the terms of financial aid and scholarships.

Non-discrimination and accommodations of students affected by pregnancy or pregnancy-related conditions

- a. SWTC and its administration, faculty, staff, and all other employees shall not require a student to limit her studies due to pregnancy or pregnancy-related conditions.
- b. SWTC will provide assistance to students who are pregnant or have a pregnancy-related condition in the same manner as students with other temporary medical conditions. Students are required to contact Disability Services, complete an online Pregnancy Adjustment Request Form, and submit required documentation of pregnancy or pregnancy-related condition.
- c. SWTC will require a student who is pregnant or has a pregnancy-related condition to obtain a letter from her health care provider to certify fitness

as a condition for participating in certain educational programs only when such certification is required of students who experience other temporary medical conditions requiring the attention of a health care provider.

- d. Although pregnancy itself is not a disability, pregnancy-related impairments may qualify as disabilities under the ADA. In such cases, students may request reasonable accommodations pursuant to the ADA through SWTC's Office of Disability Services by completing an Accommodation Request Form.
- e. Breastfeeding students must be granted reasonable time and space to breastfeed, pump breast milk, or address other needs related to breastfeeding in a location that is private, clean, and reasonably accessible. Breastfeeding rooms are available in the following locations: Room 2632 and 111.

Pregnancy-Related Absences

- a. Faculty, staff, or other employees shall not require a student to take an extended leave of absence or withdraw from or limit her studies due to pregnancy or pregnancy-related conditions.
- b. SWTC will excuse a student's absences from programs for pregnancy and pregnancy-related conditions for as long a period of time as is deemed medically necessary by the student's health care provider.
- c. Notice of intermittent absences throughout the pregnancy due to pregnancy related conditions and prenatal appointments must be provided to instructors in writing in advance of the absence when practicable.
- d. A student seeking an extended absence shall provide thirty days advance notice to her instructor, when practicable. If a student's extended absence exceeds the date stated in her original required documentation, the student will need to provide a second letter from her health care provider stating the new beginning and ending dates and the medical necessity of the additional leave.
- e. Upon return from an extended absence, the student will be reinstated to her program in the same status as when the leave began. Students are encouraged to work with their advisors to review their academic plan and revise as needed and with their instructors to develop a plan to complete missed work.
- f. Students are encouraged to contact the Office of Financial Aid with any questions regarding the terms of their financial aid and scholarships.