

Title IX Compliance

Responsible Administrator(s): Director of Human Resources and Dean of Student Services

It is the Southwest Wisconsin Technical College District policy to maintain fair and impartial relations with employees and applicants for employment and students and student applicants in any service, program, activity, course, or use of facilities on the basis of sex, age, race, color, creed, religion, national origin, disability, ancestry, political affiliation, marital status, pregnancy, sexual orientation, parental status, arrest record, conviction record, genetic testing, gender identity, and the use and nonuse of lawful products off the premises during non-working hours, and membership in the National Guard, State Defense Force or other military forces of the United States, or on any other basis that is prohibited by law. Lack of English reading/speaking skills. In addition, being in one or more of these protected classes will not be a barrier to admission and participation in district programs. See our [Equal Opportunity Statement](#) for more details.

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 of others. Southwest Tech believes in a zero tolerance policy for gender-based misconduct. When an allegation of misconduct is brought to an appropriate administrator's attention and a responding party is found to have violated this policy, serious sanctions will be used to reasonably ensure that such actions are never repeated. This policy has been developed to reaffirm these principles and to provide recourse for those individuals whose rights have been violated. This policy is intended to define community expectations and to establish a mechanism for determining when those expectations have been violated.

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Title IX Procedure

WHAT IS TITLE IX?

Title IX of the Education Amendments of 1972 protects people from discrimination based on sex in education programs and activities that receive federal financial assistance. The College is bound by, and supports, all applicable laws. The Title IX of the Higher Education Act of 1972 ensures the College does not discriminate on the basis of sex in its education programs and the Campus Sexual Violence Elimination Act (SAVE) of 2013 and Violence Against Women Reauthorization Act (VAWA) ensures that colleges and universities implement policies and programs to prevent sexual assault, dating violence, domestic violence, and stalking.

Community expectations with respect to physical sexual misconduct:

The expectations of our community regarding sexual misconduct can be summarized as follows:

- 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.

Additionally, there is a difference between seduction and coercion. Coercing someone into sexual activity violates this policy in the same way as physically forcing someone into sex. Coercion happens when someone is pressured unreasonably for sex. Because alcohol or other drug use can place the capacity to consent in question, sober sex is less likely to raise such questions.

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 understand what they are doing.

Under this policy, "No" always means "No," and "Yes" may not always mean "Yes." Anything but a clear, knowing and voluntary consent to any sexual activity is equivalent to a "no."

Community expectations of consensual relationships:

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.

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, and will likely 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 RAs 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.

What constitutes sexual misconduct?

SEXUAL MISCONDUCT OFFENSES INCLUDE, BUT ARE NOT LIMITED TO:

1. Sexual Harassment (• unwelcome, gender-based verbal or physical conduct that is, • sufficiently severe, persistent or pervasive that it, • unreasonably interferes with, denies or limits someone's ability to participate in or benefit from Southwest Tech's educational program and/or activities, and is • based on power differentials (quid pro quo), the creation of a hostile environment)

Types of Sexual Harassment—Legal Constructs

- A. Hostile Environment includes any situation 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 on all of the circumstances. These circumstances could include:

1. The frequency of the conduct;
2. The nature and severity of the conduct;
3. Whether the conduct was physically threatening;
4. Whether the conduct was humiliating;
5. The effect of the conduct on the alleged victim's mental or emotional state;
6. Whether the conduct was directed at more than one person;
7. Whether the conduct arose in the context of other discriminatory conduct;
8. Whether the conduct unreasonably interfered with the alleged victim's educational or work performance;

Examples 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.

B. Quid pro quo sexual harassment exists when there are:

1. unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature; and
2. submission to or rejection of such conduct results in adverse educational or employment action

C. Retaliatory harassment is any adverse employment or educational action taken because of the person's participation in an investigation or resolution of discrimination or sexual misconduct.

2. Non-Consensual Sexual Contact (or attempts to commit same) includes (• any intentional sexual touching, • however slight, • with any object, • of a person upon another person, • that is without consent and/or by force)

Sexual Contact includes: 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.

The use of force is not "worse" than the subjective experience of violation of someone who has sex without consent. However, the use of physical force constitutes a stand-alone non-sexual offense as well, as it is our expectation that those who use physical force (restrict, battery, etc.) would face not just the sexual misconduct charge, but charges under the code for the additional assaultive behavior.

3. Non-Consensual Sexual Intercourse (or attempts to commit same)

Non-Consensual Sexual Intercourse is:

- any sexual intercourse
- however slight,
- with any object,
- of a person upon another person,
- that is without consent and/or by force .

Intercourse includes:

- 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.

4. 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;
- Prostituting another student;
- Non-consensual video or audio-taping of sexual activity;
- Going beyond the boundaries of consent (such as letting your friends hide in the closet to watch you having consensual sex);
- Engaging in voyeurism;
- Knowingly transmitting an STI or HIV to another student;
- Exposing one's genitals in non-consensual circumstances; inducing another to expose their genitals;
- Sexually-based stalking and/or bullying may also be forms of sexual exploitation

As the policy makes clear, consent must be actively, not passively, given.

Other misconduct offenses (WILL FALL UNDER TITLE IX WHEN SEX OR GENDER-BASED)

1. Threatening or causing physical harm, extreme verbal abuse, or other conduct which threatens or endangers the health or safety of any person;
2. Discrimination, defined as actions that deprive other members of the community of educational or employment access, benefits or opportunities on the basis of gender;
3. Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another;
4. Hazing, defined as acts likely to cause physical or psychological harm or social ostracism to any person within Southwest Tech community, when related to the admission, initiation, pledging, joining, or any other group-affiliation activity (as defined further in the Hazing Policy);
5. 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).
6. Violence between those in an intimate relationship to each other; These offenses appear here, rather than along with the other offense definitions because we do not encourage their inclusion as stand-alone violations in this policy. They can be referenced, but we already should have policies in our Code addressing each of these violations. We expect that charges under the Code will bootstrap the procedural equity of this model when needed, without the need to make two versions of hazing, bullying, etc., based on the motivation of the violator.
7. Stalking, defined as repetitive and/or menacing pursuit, following, harassment and/or interference with the peace and/or safety of a member of the community; or the safety of any of the immediate family of members of the community.

SANCTIONS

Sanctions may be imposed upon any member of the college community found to have violated the Title IX Policy. Factors considered in sanctioning are defined in the [student handbook](#) and [employee handbook](#).

How Do I File A Complaint?

Southwest Wisconsin Technical College has an established procedure for resolving complaints relating to all types of discrimination and sexual misconduct. Student and employee complaints should be made to the Title IX Administrators or through email notification of the concerns@swtc.edu.

What happens when I file a complaint?

Reporters will begin with an inquiry into the reported offenses, and pursue an investigation if appropriate. The actions of the Title IX Administrators are focused on stopping the effects of the reported offenses, remedying the effects, and preventing the reoccurrence. Privacy will be maintained to the 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.

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.

Will the responding party know my identity? Yes, if Southwest Tech determines there is reasonable cause to believe a violation has occurred and investigates the matter. Sexual misconduct is a serious offense and the responding party has the right to know the identity of the reporting party.

In campus disciplinary proceedings, legal terms like “guilt,” “innocence” and “burdens of proof” are not applicable. Southwest Tech never assumes a student 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. 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.

If the reporting party’s notice results in the Title IX administrator making a determination that there was a violation of the Title IX policy, the student and/or employee conduct and sanctions procedures will be followed. Such measures 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. Not all forms of sexual misconduct will be deemed to be equally serious offenses, and Southwest Tech reserves the right to impose different sanctions, ranging from verbal warning to expulsion, depending on the severity of the offense.

In all resolutions of sexual misconduct, 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 are informed of the outcome within the bounds of student privacy (e.g., the President of Southwest Tech, Dean of Students, Director of Facilities).

Confidentiality, privacy and 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. 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 Administrator or Deputy Administrators, who will evaluate that request in light of the duty to ensure the safety of the campus and comply with federal

law. In cases indicating pattern, predation, threat, weapons and/or violence, Southwest Tech will likely be unable to honor a request for confidentiality.

In cases where the victim requests confidentiality and the circumstances allow Southwest Tech to honor that request, Southwest Tech will offer interim supports and remedies to the victim and the community, but will not otherwise pursue formal action. 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.

Formal reporting 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: Fennimore Police department, 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.

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.

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 is not disclosed, while still providing enough information for community members to make safety decisions in light of the danger.

Internal Resources

Internal contacts at Southwest Tech include our [Student Services Counselor](#). There are many other [local resources](#) available.

Additional Applicable Definitions

Consent: Consent is clear, knowing and voluntary. Consent is active, not passive. Silence, in and of itself, cannot be interpreted as consent.

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 or produce consent ("Have sex with me or I'll hit you. Okay, don't hit me, I'll do what you want.").

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 someone makes clear to you that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

NOTE: There is no requirement that a party resists the sexual advance or request, but resistance is a clear demonstration of non-consent. The presence of force is not demonstrated by the absence of resistance. Sexual activity that is forced is by definition non-consensual, but nonconsensual sexual activity is not by definition forced. In order to give effective consent, one must be of legal age. Sexual activity with someone who one should know to be -- or based on the circumstances should reasonably have known to be -- mentally or physically incapacitated (by alcohol or other drug use, unconsciousness or blackout), constitutes a violation of this policy.

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 disclosures. Incorporating the state definition of consent will help to satisfy the policy disclosure requirement, but it is important to note that nothing in the law requires schools to evaluate campus reports using state legal standards. The Clery requirement is just one of disclosure, so that victims may know what the state provisions are if they are considering making a criminal complaint.

These substances, including Rohypnol, Ketomine, GHB, Burundanga, etc. is prohibited, and administering one of these drugs to another student is a violation of this policy. More information on these drugs can be found at <http://www.911rape.org/>

Use of alcohol or other drugs will never function as a defense for any behavior that violates this policy. The sexual orientation and/or gender identity of individuals engaging in sexual activity is not relevant to allegations under this policy.

CAMPUS SAFETY

Southwest Tech is committed to our Student's right to know about the security of our campus. We are transparent about reporting crime statistics about campus safety in observance of federal laws including the Jeanne Clery Disclosure of Campus Security Policy and Crime Statistics Act, the Violence Against Women Act, and the SaVE (Sexual Violence Elimination) Act.

View a copy of our [Annual Security Report \(Clery Report\)](#)

SANCTIONING FOR VIOLATIONS

SANCTIONING FOR SEXUAL MISCONDUCT

- Any person found responsible for violating the policy on Non-Consensual or Forced Sexual Contact (where no intercourse has occurred) will likely receive a sanction ranging from probation to expulsion, depending on the severity of the incident, and taking into account any previous disciplinary violations.*
- Any person found responsible for violating the policy on Non-Consensual or Forced Sexual Intercourse will likely face a recommended sanction of suspension or expulsion (student) or suspension or termination (employee).*
- Any person found responsible for violating the policy on sexual exploitation or sexual harassment will likely receive a recommended sanction ranging from warning to expulsion or termination, depending on the severity of the incident, and taking into account any previous disciplinary violations.*

*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.