

# ANTI-DISCRIMINATION AND HARASSMENT

## I. POLICY

Salt Lake Community College is committed to advancing knowledge, freedom of thought and inquiry, and the personal, social, and intellectual development of its students, faculty, and staff. An atmosphere of mutual respect among our community members is necessary for the college to function as a center of academic freedom and intellectual advancement. It is SLCC's policy to provide all personnel with a respectful work environment free from discrimination, harassment, and retaliation.

## II. REFERENCES

- A. The Equal Pay Act, 29 U.S.C. § 206.
- B. The Age Discrimination in Employment Act, 29 U.S.C. §§ 621–634.
- C. The Rehabilitation Act, 29 U.S.C. §§ 701-797.
- D. The Vietnam Era Veterans Readjustment Act of, 38 U.S.C. § 4212.
- E. Title VII of the Civil Rights Act, 42 U.S.C. § 2000e.
- F. The Americans with Disabilities Act, 42 U.S.C §§ 12101–12213.
- G. The Utah Anti-discrimination Act, Utah Code Ann. §§ 34A-5-101–112.

## III. DEFINITIONS

- A. **Adverse Action:** Any material action against an individual that affects an employee's employment status, including compensation, terms, conditions, location, rights, immunities, promotions, or privileges.
- B. **Appeal Examiner:** The associate vice president (AVP) of People and Workplace Culture will review appeals of investigations; if the AVP has a conflict of interest in an investigation appeal, the president will appoint an Appeal Examiner.
- C. **Discrimination:** Treating someone differently based on a person's protected class when such conduct adversely affects the term, condition, or privilege of an individual's employment or participation in a college program or activity.

Date of last Board of Trustees review: April 12, 2023

The originator of this policy & procedure is the EO Office. Questions regarding this policy may be directed to the originator by calling 801-957-3850.

4.2.040

- D. **Hostile Environment Harassment (“Harassment”)**: any unwanted verbal, written, electronic, or non-verbal conduct (whether directly, indirectly, or through a third party) based on one’s protected class that is objectively offensive and sufficiently severe or pervasive to alter the conditions of employment of an employee or to limit, interfere with, or deny educational benefits or opportunities of a student.
- E. **Protected Class**: Personal characteristics such as race, color, religion, national origin, sex, sexual orientation, gender identity, gender expression, age, disability, veteran status; pregnancy, childbirth, or pregnancy-related conditions; genetic information, legal statuses such as undocumented or formerly incarcerated, or other bases protected by law.
- F. **Retaliation**: Any form of sanction or adverse action or treatment of a person that is intended to restrain or has the effect of restraining that person from any college program or activity, because that person made a discrimination or harassment complaint, or participated in any way in a discrimination or harassment investigation.

See [Personnel Definitions](#) for other applicable definitions.

#### IV. PROCEDURES

##### A. Applicability

1. The college prohibits all employees, students, volunteers, and contractors from engaging in discrimination, harassment, or retaliation by taking adverse action against a member of a protected class.
2. All employees are responsible for assuring:
  - a. that discrimination, harassment, or retaliation does not occur; and
  - b. that the college's working and educational environment is not threatening, hostile, or offensive to diverse individuals at any college site.
3. The college takes affirmative action to educate and create a welcoming, inclusive workplace free of discrimination, harassment, and retaliation.
4. Employees and students who engage in discrimination, harassment, or retaliation will be subject to sanctions or corrective action, including expulsion, immediate suspension, administrative leave, or termination.

5. Individuals who make intentional false claims, statements, or bad faith allegations may be subject to corrective action.
6. Claims of discrimination and harassment that are not based on a protected class are covered in the Employee Conduct policy, the ADA Access and Reasonable Accommodation Policy, the Affirmative Action and Equal Opportunity Policy, the Title IX Sexual Harassment policy, or the Workplace Bullying Policy.

## B. Confidentiality

1. Except where required by law, the college will keep all information related to claims and investigations confidential.
2. Any person who believes they are the recipient of or has knowledge of discrimination or harassment is encouraged to report it directly to their supervisor, second-level supervisor, the director of the Equal Opportunity Office ("EO Director"), or the associate vice president ("AVP") of People and Workforce Culture. These reports allow the college to identify patterns of problematic behaviors and instances of persistent discrimination or harassment.
3. The college strongly encourages, but does not require, all employees to consult with their supervisor or the EO Director whether to file a discrimination, harassment, or retaliation complaint.
4. Supervisors who witness or receive a report of potential discrimination, harassment, or retaliation must inform the EO Director within two business days to discuss the appropriate institutional response. Only confidential employees (see IV.H) are exempt from this requirement.
5. The EO Director will maintain and store records of all discrimination and harassment complaints for at least seven years. The complaint and investigation file are confidential.

## C. Retaliation

1. The college strictly prohibits retaliation against any person who has made a complaint, assisted with, or participated in an investigation under this policy (see III. F).
2. The college will treat instances of retaliation as separate offenses to be thoroughly investigated and addressed.

#### D. Reporting Discrimination, Harassment or Retaliation

1. While affected individuals may report discrimination, harassment, and retaliation at any time, the college encourages individuals to promptly report these adverse actions to ensure timely resolution, the preservation of evidence, and the protection of others and college culture.
2. Any person who believes they have experienced or witnessed discrimination, harassment, or retaliation is encouraged to do one of the following:
  - a. submit an online reporting [form](#);
  - b. discuss it with their first or second-level supervisor or the AVP of People and Workplace Culture; or
  - c. consult with the EO Office in person, by mail, telephone, or email.

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The Equal Opportunity Office  
4600 South Redwood Road  
Technology Building, Suite 222  
Salt Lake City, Utah 84123  
(801) 957-3850  
[EO@slcc.edu](mailto:EO@slcc.edu)

#### E. Optional Mediation Process

1. The purpose of mediation is to resolve the dispute to the satisfaction of all parties. Mediation is a voluntary option for the parties, and neither party may be pressured or required to enter a mediation process.
2. At any time before reaching a determination regarding responsibility, the college may facilitate a mediation process instead of a full EO investigation.
3. The EO Office will obtain voluntary, written confirmation that all parties wish to resolve the matter through a mediation process before proceeding.
4. The EO Office will designate an impartial mediator and inform the parties in writing of the mediation process and schedule.
5. Mediation should occur no later than 30 calendar days after agreed to by the parties. The AVP for People and Workplace Culture may consider and grant mediation extensions.

6. The investigative timelines presented under these procedures must be paused pending the outcome of the mediation.
7. If mediation successfully resolves the complaint, the mediator must put the terms of the resolution in writing, which the parties shall sign. The agreement must be approved through appropriate college personnel, e.g., employees' supervisors or the Dean of Students.
8. If mediation does not resolve the matter, all mediation discussions shall remain confidential and may not be used in the formal process or any other forum.
9. Any party may withdraw their participation in mediation at any point before the mediation ends.
10. The AVP of People and Workplace Culture may terminate the mediation at any point before the conclusion of the mediation.

#### F. Filing a Complaint

1. A complaint may be submitted orally or in writing, and should describe in plain language:
  - a. the circumstances which the complainant believes support the allegation of employment discrimination, harassment, or retaliation;
  - b. supporting evidence,
  - c. the name of the individual against whom the claim is made (the "respondent"); and
  - d. any remedies that the complainant seeks.
2. Those who believe they are victims of employment discrimination, harassment, or retaliation may also initiate outside legal action through private sources, the Utah Antidiscrimination and Labor Division, or the U.S. Equal Employment Opportunity Commission.

#### G. Determining the Appropriate Resolution Process

1. The EO Office must assess the allegations and determine whether they, if proven, constitute a violation of this policy.

- a. If the allegations are a potential violation of this policy, the EO Office will start an EO investigation. However, the optional mediation (see IV.M) may be used instead of an EO investigation if both the complainant and respondent consent.
- b. If the allegations are not a potential violation of this policy or the college's Title IX policies, but are a potential violation of another college policy, the EO Office will forward the relevant information to the appropriate college department, e.g., Employee Relations or relevant supervisors. The EO Office will notify the complainant of the decision and communicate the process under other policies and procedures.
- c. If the allegations are not a potential violation of any college policy, the EO Director will dismiss the complaint.

## 2. Dismissing a Complaint

- a. In the case of dismissal, the EO Director will provide written notice of the dismissal and the reasons to both parties.
- b. Mandatory Dismissal: If the conduct alleged is not a violation of college policy, the EO Director will dismiss the claim.
- c. Discretionary Dismissal: if the specific circumstances prevent sufficient gathering of evidence to reach a determination, the EO Director may dismiss the claim, after consultation with the AVP of People and Workplace Culture.

## H. Supervisors

### 1. Supervisors must:

- a. maintain a working environment free of discrimination, harassment, and retaliation;
- b. inform the EO Office within two business days of receiving a complaint of discrimination, harassment, or retaliation;
- c. allow employees time to participate in an investigation should they be involved in any way;

- d. in consultation with the next level supervisor, the EO Director, and the director of Employee Relations, determine the appropriate corrective actions for violations of this policy; and
- e. notify the appropriate Vice President/Provost after imposing the corrective action.

#### I. Confidential Employees

1. An employee is a confidential employee if they are a licensed medical, clinical, mental health professional, or their staff, e.g., Center for Health and Counseling staff.
2. Any person who thinks they may have experienced or witnessed harassment, discrimination, or related retaliation may seek confidential counsel and support from a confidential employee.
3. The college prohibits confidential employees from disclosing protected information communicated to the employee unless:
  - a. the individual gives written consent to the employee;
  - b. the confidential employee is reasonably concerned that the individual will cause serious harm to themselves or others; or
  - c. the information involves suspected abuse, neglect, or exploitation of a person under 18 years old or a vulnerable adult.

#### J. Office of Equal Opportunity

1. The EO Office serves as a college resource to provide information, counseling, training, and advice regarding employment discrimination, harassment, and retaliation.
2. An employee with a complaint is encouraged to discuss it with the EO Office to clarify whether employment discrimination, harassment or retaliation may be occurring and determine the employee's options, including the pursuit of more formal action.
3. If the complainant decides not to file a complaint, then the EO Director may still investigate the complaint regarding the alleged discrimination, harassment, or retaliation based on the severity of the allegation.

4. The college may provide counseling, course-related adjustments, modified employment conditions, increased security, or other supportive measures designed to restore or preserve access to the college's programs or activities to all persons regardless of the pursuit of a complaint.
5. The EO Office will provide complainants with information regarding supportive services that the college and other organizations offer.
6. The college's Department of Public Safety may concurrently investigate criminal complaints.

#### K. Investigation Planning and Process

1. The EO Office must conduct investigations according to the [Investigation Procedure Guide](#) and meet all applicable laws and regulations.
2. The EO Office will, in consultation with the assistant attorney general, a representative chosen by the vice president for Institutional Equity, Inclusion and Transformation, and as appropriate the Dean of Students and/or the director of Employee Relations, determine if an institutional investigation is required based on the complaint.
3. If there is a need for an investigation, the EO Director, will:
  - a. Appoint a lead investigator to conduct the investigation;
  - b. determine and appoint, if necessary, a support investigator if needed based upon the nature of allegations and complexity of the investigation; and
  - c. issue a Notice of Investigation.
4. The AVP for People and Workplace Culture, in consultation with the EO Director and legal counsel, will make decisions on complaints regarding whether investigators, mediators or appeal examiners are biased or have a conflict of interest in violation of college policy. If there is a conflict of interest, the investigator will be removed from the EO investigation.
5. Notice of Investigation
  - a. The EO Office will provide notice of investigation to:
    - (1) the complainant;
    - (2) the respondent;



- (3) the appropriate vice president; and
- (4) the supervisor or dean, as appropriate.
- b. The notice of investigation must include:
  - (1) the names of the parties involved;
  - (2) a copy of the Anti-Discrimination and Harassment policy;
  - (3) the specific allegations of misconduct;
  - (4) the date and location of the incident;
  - (5) notice of the parties' rights to mediation; and
  - (6) the steps for requesting mediation.
- c. The complainant may provide a statement of the alleged misconduct to be included in the notice of investigation.
- d. The respondent will have five business days to provide a written response to the specific allegations made by the complainant.
- e. Complainant will have five business days to provide a rebuttal to any allegations that the respondent disputes in the response.

## 6. Participation

- a. All employees must participate in EO investigations in a timely manner.
- b. Supervisors must make their employees available to participate.
- c. Retaliation for participating in EO investigations is a violation of this policy and may be subject to corrective action.

## 7. The Investigation Report

- a. After the investigation, the investigators must write an investigation report detailing their findings.
- b. Investigators must complete the final investigative report within 85 business days (120 calendar days) of the delivery date of the Notice of Investigation.

- c. The AVP for People and Workplace Culture may grant a reasonable extension for complex investigations or other reasonable, extenuating circumstances. If granted, the AVP for People and Workplace Culture must communicate the reason for the extension to the parties and the appropriate college administrator.
- d. The investigation report must be written using the investigation report template.
- e. The investigation report must determine if the respondent(s) is either responsible or not responsible for the alleged conduct
- f. If investigators do not agree on the determination of responsibility, the EO Director will decide on responsibility.
- g. The lead investigator will deliver the completed report to the EO Director.
- h. The EO Office will provide the report to the parties simultaneously and to the supervisor and appropriate Vice President.
- i. If the investigation reveals the violation of other college policies, the EO Office will refer the report and evidence to the Employee Relations office for further action.

#### L. Appeal of Investigative Findings

1. Any party may request an appeal of the findings by submitting a request in writing to the EO Office within ten business days of the date the final report is sent to the parties.
2. If no party submits an appeal of the investigative findings, the final report becomes final and binding.
3. Any appealing party must clearly state the grounds on which they are appealing the decision in the written appeal. Grounds for appeal include:
  - a. The dismissal of the claim is not aligned with the standards in this policy;
  - b. the investigation determination is not supported by the evidence gathered in the investigation;
  - c. a procedural problem that affected the outcome of the investigation;  
or

- d. new evidence that was not reasonably available at the time of the determination became available.
4. Failure to file a timely written request for an appeal is a waiver of the right to an appeal.
5. Upon receipt of an appeal, the EO Office shall forward the appeal to the other party and invite that party to submit a written response within five business days.
6. The EO Director may also provide a written response to the appeal.
7. The appeal examiner may review the parties' written statements, the final investigative report, and all evidence collected during the investigation.
8. The appeal examiner's decision must be completed within 10 business days of receiving the final party's response.
9. The appeal examiner's written decision may:
  - a. affirm or modify the final investigative report;
  - b. return the decision back to the EO Office for further investigation; or
  - c. overturn the investigative report in part or whole.
10. The appeal examiner's written decision is final.

#### M. Supervisor Response to Investigative Report

1. Upon receipt of the investigative report, the respondent's supervisor will coordinate with Employee Relations to review the report in its entirety.
2. The supervisor and Employee Relations may solicit whatever additional counsel and advice from the college's legal office or the EO Office they determine is appropriate to assist in arriving at a response.
3. The supervisor and Employee Relations will determine whether to attempt informal reconciliation between the parties or initiate corrective action proceedings.
  - a. Corrective or remedial action may include, but is not limited to, mandatory training, an oral or written reprimand, a warning letter, a temporary reduction in pay, probation, suspension with or without pay, or termination.

- b. The supervisor must take reasonable measures to prevent any further violations of policy. If the supervisor fails to act to prevent further violation of policy or implement corrective action, the supervisor is subject to corrective action, up to and including termination.
  - c. Should any corrective actions be applied, those actions will be subject to due process procedures in the applicable college policies.
- 4. Upon determining the appropriate corrective action, the supervisor will notify respondent in writing.
- 5. The EO Director will communicate the final resolution of the complaint to the complainant. The EO Director must respect the confidentiality of the corrective action.

#### N. Reporting Responsibilities

- 1. The EO Director will prepare and submit quarterly updates to the President.
- 2. The EO Office will make an annual report available to the college community on the EO website by July 31.