

I. POLICY

- A. Salt Lake Community College is committed to the advancement of 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 members of our academic community is necessary for the college to function as a center of academic freedom and intellectual advancement.
- B. It is the policy of the college to provide all college community members, including applicants for admission or employment, with a work and learning environment free from any form of unlawful sexual harassment.
- C. Salt Lake Community College prohibits harassment based on sex, gender identity and sexual orientation and complies with Title IX of Education Amendments Act.

II. REFERENCES

- A. Title IX of the Education Amendments of 1972, [20 U.S.C. § 1681 - 1688](#).
- B. Violence Against Women, [34 U.S.C. § 12291](#).
- C. Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, [34 C.F.R. §§ 106.1-106.71](#).

III. DEFINITIONS

- A. Retaliation: Any form of sanction or adverse treatment of a person that is intended to restrain, or has the effect of restraining that person from any college program or activity, because the person made a sexual harassment complaint, or participated in any way in a sexual harassment investigation.
- B. Sexual Harassment: Making the provision of aid, benefit, or service of the college conditional on an individual's participation in unwanted sexual conduct;

Date of last cabinet review: June 1, 2021

The originator of this policy & procedure is the director of EEO and Title IX. Questions regarding this policy may be directed to the originator by calling 801-957-4561.

or unwanted sexual conduct that is so severe and pervasive and objectively offensive that it interferes with someone's access to a college program or activity. Sexual harassment includes sexual violence, dating violence, domestic violence, and stalking as defined in the Violence Against Women Act.

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

IV. PROCEDURES

A. Applicability

1. The college prohibits all SLCC employees, students, volunteers, and contractors from engaging in sexual harassment.
2. These procedures apply only to sexual harassment complaints, as defined by Title IX of Education Amendments Act. Not all harassment and sexual misconduct complaints will qualify for Title IX protections. All other instances sexual misconduct follow the procedures in other applicable policies.

B. Confidentiality

1. Unless required by law, the college will respect all participants' confidentiality.
2. Any person who believes they are the victim of, or has knowledge of, sexual harassment is encouraged to report it directly to any of the following: their supervisor, second-level supervisor, the Title IX coordinator, or the associate vice president of People and Workforce Culture.
3. Except as provided in IV.E.1.c. below, individuals have broad discretion to determine whether to file a formal complaint. All persons are encouraged to inform and consult with the Title IX coordinator, especially if they are unsure or uncertain how to proceed. The Title IX coordinator will presume that each report is made in good faith.
4. Except for confidential employees (see IV.D.3 below), all employees who witness or receive a report of a potential instance of sexual harassment are encouraged inform the Title IX coordinator within two business days.
5. Supervisors who witness or receive a report of a potential instance of sexual harassment within their supervisory area must inform the Title IX coordinator within two business days.

6. The Title IX coordinator will maintain and store the records of all harassment complaints for a minimum of seven years to identify patterns and address instances of a culture of harassment. The complaint file is confidential.

C. Retaliation

1. The college strictly prohibits any form of retaliation against any person who has made a complaint, assisted with, or participated in an investigation under this policy.
2. Retaliation includes any form of corrective action or adverse treatment of a person because that person either complained about harassment has participated in an investigation of harassment.
3. The college will treat instances of retaliation as separate offenses to be thoroughly investigated and addressed.

D. Reporting Sexual Harassment

1. Any person who thinks they have experienced or witnessed sexual harassment-or retaliation should inform the college through one of the following methods:
 - a. submit an online reporting [form](#);
 - b. discuss it with their first or second level supervisor;
 - c. consult with the Title IX coordinator in person, by mail, telephone, email;
 - d. Title IX Coordinator
Cindy Cole
4600 S Redwood Rd.
Technology Building Suite 222
Salt Lake City, UT 84123
801.957.4561
titleIX@slcc.edu
 - e. submit a report to the U.S. Department of Higher Education:
U.S. Department of Education–Denver Office
Office of Civil Rights (OCR)
Cesar E Chavez Memorial Building
1244 Speer Blvd., Suite 310
Denver, CO 80204-3582

Telephone: 303-844-5695
Fax: 303-844-4303
TDD: 800-877-8339
Email: OCR.Denver@ed.gov
Website: ocrcas.ed.gov

E. Supervisors

1. Supervisors must:

- a. ensure and maintain a working environment free of intimidation, coercion, sexual harassment, and retaliation;
- b. inform the Title IX coordinator within two business days after witnessing or receiving a complaint of sexual harassment or retaliation;
- c. make employees available to participate in an investigation; and
- d. in consultation with the next level supervisor, the Title IX coordinator, and the director of Employee Relations, determine the appropriate corrective actions for violations of this policy; and
- e. after imposing the corrective action, notify the appropriate Vice President.

F. Confidential Employees

1. An employee is a confidential employee if they are a licensed medical, clinical, mental health professional, or their staff when acting in their professional capacity. This is generally the health and counseling center staff.
2. Any person who thinks they may have experienced or witnessed sexual harassment, or related retaliation may seek confidential counsel and support from a confidential employee. Confidential employees provide confidential support and counseling regarding sexual harassment or retaliation.
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.

G. Determination of the Appropriate Resolution Process

1. Upon receiving a report, the Title IX coordinator will determine if the allegations, if proven, meet the definition of sexual harassment or retaliation under Title IX.
 - a. If the reported allegations meet the definition of sexual harassment or retaliation, the Title IX coordinator will consult with the complainant to determine whether they wish to file a formal complaint.
 - b. If the complainant wants to file a formal complaint, the Title IX coordinator will support the complainant in filing a formal Title IX sexual harassment complaint (section IV.G) and notify as appropriate:
 - (1) an employee's first or second level supervisor; or
 - (2) the dean of students.
 - c. If the complainant does not want to file a formal complaint, the Title IX coordinator will determine whether, due to the severity of the allegation, the college must investigate under Title IX. If Title IX coordinator determines the college must investigate, the Title IX coordinator will create and sign a formal Title IX sexual harassment complaint on behalf of the college and notify the appropriate parties.
 - d. The college will 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 creation of a formal complaint. The Title IX coordinator will provide victims with information regarding emergency services the college and other organizations offer.
 - e. If the reported allegations do not meet the definition of sexual harassment or retaliation, or if the alleged conduct did not occur in an SLCC educational program or activity within the United States, the Title IX coordinator will provide potential alternative remedies under other college policies and direct the person to the appropriate college resources.
 - f. A person may appeal the title IX Coordinator's determination that the allegations do not meet the definition of sexual harassment or retaliation by following the appeals procedure in section IV.L of this policy.

- g. The Title IX coordinator will record each report alleging sexual harassment or retaliation.

H. Filing a Title IX Sexual Harassment Formal Complaint

1. Individuals may file a formal complaint at any time. The college will only investigate formal Title IX sexual harassment complaints where the allegations, if proven, would constitute sexual harassment under Title IX.
2. A Title IX sexual harassment formal complaint must:
 - a. be in writing;
 - b. include the name and if applicable, position and title of the respondent;
 - c. clearly explain the allegation(s);
 - d. include supporting evidence, if any;
 - e. describe the remedies the complainant seeks;
 - f. be signed by the complainant; and
 - g. be submitted to the Title IX coordinator or designee.
3. If the immediate safety of any person is at risk, the Title IX coordinator, the dean of students, or the director of employee relations may determine if the situation warrants immediate action, for the safety of any parties involved.
4. If immediate action is warranted, the Title IX coordinator or the director of employee relations, as appropriate, will coordinate with the appropriate supervisor or dean of students to implement the necessary action. Immediate action may include:
 - a. the duty to warn anyone in danger;
 - b. administrative leave;
 - c. interim suspension;
 - d. separating the involved parties; or
 - e. other actions as necessary to ensure safety.

I. Optional Mediation Process

1. The college encourages mediation to resolve sexual harassment formal complaints. However, mediation is voluntary, and the college will not compel either complainant or respondent into mediation.

2. In order to obtain a party's consent to waive their rights to a formal hearing, the college must not:
 - a. Condition continued or future employment on waiver of this hearing right;
or
 - b. Condition participation in a college activity on waiver of this hearing right.
3. Requirements for Mediation
 - a. Either party may request mediation resolution process at any time before a formal hearing by giving written notice to the Title IX coordinator. The mediation process is available only when:
 - (1) a complainant or the Title IX coordinator has filed a formal complaint;
 - (2) both parties agree in writing to mediation; and
 - (3) both parties are aware that either party may elect to opt out of mediation at any time before the parties reach a resolution.
 - b. Mediation resolution processes are not available when:
 - (1) the complainant is a student and the respondent an employee;
 - (2) the allegation involves sexual violence; or
 - (3) the allegations of sexual harassment are contested.
4. The college will not condition any continued or potential employment or access to any college activity on anyone waiving their rights to a formal hearing.
5. The Mediation Process
 - a. The Title IX coordinator will appoint a mediator
 - b. The mediator may:
 - (1) conduct an inquiry to determine the facts;
 - (2) make the parties aware that the Title IX coordinator can facilitate providing supportive measures such as counseling, course-related adjustments, modified employment conditions, increased security, or other supportive measures
 - (3) facilitate the parties' negotiation to a mutually agreeable resolution;
 - (4) conduct a follow-up review, if agreed to by the parties, to ensure the parties are abiding by the negotiated resolutions; or

(5) take other actions appropriate to a mediation process.

- c. If the mediation process results in an agreement:
 - (1) the mediator will prepare a written agreement incorporating all the negotiated terms; and
 - (2) the parties will sign the agreement, and each will receive a copy of the signed agreement.
- d. The agreement must be approved through appropriate college personnel (e.g., supervisors if an employee and dean of students if a student).
- e. Mediation processes are confidential.
- f. A mediator cannot provide subsequent investigation interviews or testify in a Title IX hearing or serve in any other Title IX capacity on any formal complaint they mediated.
- g. Any statements made by either party or their representatives during the mediation process may not be used in any subsequent formal process.

J. Title IX Sexual Harassment Investigation Procedure

- 1. Investigations must be conducted according to [Investigation Procedure Guide](#) and meet all applicable laws and regulations.
- 2. The Title IX coordinator will consult with the director of employee relations, dean of students and assistant attorney general, will determine if an institutional investigation is required based on the formal complaint.
- 3. Notice of Investigation
 - a. The Title IX coordinator will provide notice of the investigation to:
 - (1) the complainant;
 - (2) the respondent;
 - (3) the appropriate vice president or Provost; and
 - (4) the supervisor or dean of students as appropriate.
 - b. The notice of investigation must include:
 - (1) the names of the parties involved;
 - (2) a copy of the Title IX Sexual Harassment policy;
 - (3) the specific allegations of misconduct;
 - (4) the date and location of the incident(s);

- (5) notice of the parties' rights to an informal adjudication process or mediation; and
 - (6) the steps for requesting a mediation process.
 - c. A statement must accompany the notice that includes:
 - (1) an outline of the college's investigation procedures;
 - (2) a declaration that the respondent is presumed not responsible, and that the school will make a determination at the end of the process;
 - (3) notice that the parties may request to inspect and review evidence, and the process for doing so;
 - (4) a warning that prohibits making a false statement or submitting a false information; and
 - (5) a statement that if the school begins to investigate allegations not included in the notice, it will provide a separate notice.
 - d. Respondent may respond to the specific allegations made by the complainant within five business days.
 - e. Complainant will have five business days to provide a rebuttal to any allegations that the respondent disputes in the response prior to the investigation.
 - f. The investigators will give the respondent five calendar days after receipt of the notice before the initial interview.
4. Prompt, Thorough, and Fair Investigations
- a. The college will conduct a prompt, thorough, and fair investigation. While the college endeavors to cooperate with law enforcement and other entities, the college will not:
 - (1) unreasonably postpone an investigation, usually no more than one week; or
 - (2) fail to investigate due to a concurrent investigation by another agency or governmental entity.
 - b. The complainant, respondent, and witnesses have five business days to respond to interview summaries.
 - c. Investigators shall complete the final investigative report within 30 calendar days of receiving a complaint.
 - d. The complainant and respondent have 10 business days to respond to the final investigation report.

- e. The Associate Vice President for People and Workplace Culture may grant a reasonable extension for complex investigations or other reasonable, extenuating circumstances. Upon extension, the Associate Vice President for People and Workplace Culture shall communicate the reasons for extension to the parties and the appropriate college administrator.
- f. If a time limit in this policy conflicts with any other college policy, the time limits in this policy shall govern.

5. The Investigation Report

- a. After the investigation, the investigators must write an investigation report using the Title IX investigation report template detailing their findings.
- b. The investigation shall not make a determination of either responsible or not responsible.
- c. The lead investigator will deliver the completed report to the Title IX Coordinator.
- d. The Title IX Coordinator will provide the report to the parties simultaneously.
- e. The report may be used to provide background information to the subsequent hearing officer or committee and may be referenced by either party during the hearing.

K. Hearings to Determine Responsibility for Sexual Harassment

- 1. Unless the parties have agreed to and successfully completed a mediation process, the college will conduct a live hearing to address a formal complaint of sexual harassment.
- 2. The Title IX coordinator will assign a hearing officer and, if necessary, hearing committee members.
- 3. The Associate Vice President for People and Workplace Culture, in consultation with the Title IX coordinator and legal counsel, will make decisions on complaints that investigators, mediators, hearing officers, committee members or appeal officers have requisite training, are biased or have a conflict of interest in violation of college policy or applicable Title IX regulations. If the complaint is founded, the person will be removed from the Title IX duty.

4. Roles and Responsibilities at the Hearing

a. Hearing officer or grievance panel

- (1) Respondent may choose to have a single hearing officer or a grievance committee, as described in section IV.D.6 of the Employee Grievance Policy.**
- (2) The Title IX coordinator will appoint a qualified hearing officer and, if necessary, assemble a grievance committee and notify the parties of the choice. The hearing officer or any panel member may not be anyone that acted as an investigator for the complaint, anyone that facilitated mediation, the Title IX coordinator, or a deputy Title IX coordinator.**
- (3) The hearing officer will manage the hearing including establishing deadlines for the parties to submit witness lists and documents intended to be introduced at the hearing.**

b. Advisors

- (1) The parties must have a personal advisor of their choice present at the hearing. If a party does not have an advisor:
 - (a) The party must notify the Title IX coordinator at least 10 days before the hearing; and**
 - (b) The college will provide an advisor from the pool of advisors at no cost to the party.****

c. Personal Representative

- (1) A party may have one personal representative attend the hearing for emotional support and transparency.**
- (2) At the hearing, each party may be accompanied by their advisor and personal representative. If necessary, a translator or interpreter may accompany the party.**

d. Expert Witness

- (1) A party who intends to call an expert witness must notify the hearing officer and the other party in writing no later than five business days before the hearing date.**
- (2) The notice must certify that the expert witness is qualified to offer opinions and provide a written report prepared and signed by the witness or party that includes:**

- (a) the subject about which the expert witness will testify;
 - (b) the substance of the facts and opinions which the expert will testify;
 - (c) a summary of the basis for each of opinion; and
 - (d) the witness's qualification as an expert.
- 5. If any party refuses to attend a hearing, the college will conduct the hearing in the party's absence. The party's advisor will represent the party's interests.
- 6. Venue and Technology
 - a. Hearings must be in real-time and may be in person or virtual using equipment that simultaneously allows the hearing officer and the other party to see and hear the party or witness answering questions.
 - b. If the college holds the hearing in person, either party may request that the parties remain in separate rooms using the technology described above.
 - c. At the hearing officer's discretion, the witnesses may be in separate rooms when not answering questions.
 - d. All hearings will be audio or video recorded. The college will make the recordings available to the parties and their advisors for inspection and review.
- 7. Presumption, Standard of Proof, and Due Process
 - a. All respondents are presumed not responsible for the alleged conduct.
 - b. The standard of proof for all sexual harassment, retaliation determinations, and appeals is a preponderance of the evidence.
 - c. Hearings will treat complainants and respondents equally.
- 8. Conducting the Hearing
 - a. The hearing officer will begin the hearing with instructions to the parties and advisors.
 - b. The lead investigator will present the findings of the investigation.
 - c. The hearing officer may allow advisors to give an opening or closing statement and may limit the time for a statement. The opportunity and time must be equal for both parties.

- d. Only a party's advisor or the hearing officer may ask questions of the other party or witnesses; the parties may not question the other party or witnesses.
 - e. An advisor must ask only relevant questions, follow-up questions, or questions that challenge a party or a witness's credibility. Advisors must ask questions verbally, directly, and in real-time.
 - f. Before a party or witness answers a question, the hearing officer must determine whether the question is relevant. The hearing officer's decision is final.
 - g. If the hearing officer determines a question is not relevant, the hearing officer must explain the decision to exclude the question.
 - h. If the hearing is before a panel, panel members may ask questions by posing the question to the hearing officer who will determine the question's relevance, and follow the procedures described above.
 - i. If any person's behavior is disrespectful, hostile, or undignified, the hearing officer may warn or dismiss that person as the hearing officer deems appropriate.
 - j. If the hearing officer dismisses a party's advisor for misconduct, or if the party asserts that the party's advisor is not acting in the party's interest, the hearing officer will:
 - k. Provide another advisor to act on the party's behalf; and
 - l. Reschedule the hearing if necessary.
9. Determination of Responsibility
- a. Duties of the Hearing Officer and Panel
 - b. When the hearing is before a hearing officer, the hearing officer will determine responsibility.
 - c. When the hearing is before the panel members will make decisions by majority vote. In the event of a tie vote, the hearing officer will cast the tie-breaking vote.
 - d. When determining if a respondent is responsible for the alleged conduct, the hearing officer or hearing panel must:
 - (1) presume that the respondent is not responsible for the alleged conduct;
 - (2) evaluate all relevant evidence;

- (3) not base the credibility of the parties based on their status as complainant or respondent in the hearing, but only on the evaluation of the totality of the evidence presented at the hearing;
- (4) wait until the conclusion of the hearing; and
- (5) apply the appropriate preponderance of the evidence standard.

10. Uncooperative Participants

- a. If a party or witness refuses to attend the hearing or submit to questions, the hearing officer must not:
 - (1) rely on any statement of the party or witness when deciding responsibility; and
 - (2) draw inferences regarding responsibility based solely on the absence of a party or witness.

11. Written Decision

- a. After the hearing officer or panel determines the respondent's responsibility, the hearing officer will draft a written decision which must identify the allegations of sexual harassment as defined in this policy.

12. Determination of Responsibility

- a. If the hearing officer determines that the respondent is responsible for the conduct, within five business days of the hearing, the hearing officer will confidentially refer the written decision to the respondent's supervisor and the director of employee relations or the dean of students, as appropriate, to determine sanctions or corrective actions.
- b. Within three business days of receiving the written decision, the respondent's supervisor, in coordination with the director of employee relations, or the dean of students will determine the sanctions or corrective action and inform the hearing officer of their decision.
- c. The supervisor shall notify the appropriate cabinet member before imposing the corrective action.
- d. The hearing officer will include the sanction or corrective action in the written decision.
- e. The written decision must:

- (1) Identify the allegations of sexual harassment as defined in this policy;
 - (2) Include the procedural steps the college took from the receipt of the formal complaint to the determination, including:
 - (a) Notifications to the parties;
 - (b) Identifying interviews of parties and witnesses;
 - (c) Information about site visits, if any;
 - (d) Documents and evidence obtained;
 - (e) The methods used to gather evidence;
 - (f) Identifying any hearings held;
 - (g) The facts that support the decision;
 - (h) Conclusions regarding the application of the facts to the Code of Student Rights and Responsibilities, Employee Conduct, or other policy allegedly violated;
 - (3) A statement of the rationale for a decision for each allegation;
 - (4) Corrective action or sanctions, if any, the college will impose on the respondent;
 - (5) Any remedies designed to restore or preserve the complainant's access to the college's educational programs and activities; and
 - (6) The grounds, time limit and process for either party to appeal.
- f. Within 10 calendar days of the hearing, the hearing officer must provide the written decision to both parties simultaneously. The time limit can be extended for a good cause.
 - g. The Title IX coordinator is responsible for coordinating the application of any remedies provided.

L. Appeals

1. Parties and grounds

- a. Either party may appeal a decision regarding responsibility or from the dismissal of any portion of a formal complaint.
 - b. A party may appeal for any of the following reasons:
 - c. a procedural problem that affected the outcome of the hearing;
 - d. new evidence that was not reasonably available at the time of the decision or dismissal;
 - e. the Title IX coordinator, the investigators, or the hearing officer had a conflict of interest or bias that affected the outcome; or
 - f. the severity of the sanction of corrective action.
2. Notice of Appeal
- a. The Title IX coordinator must receive written notice of a party's intent to appeal within 10 calendar days after the hearing officer issues the decision.
 - b. The notice of appeal must include:
 - (1) the grounds for appeal;
 - (2) additional statements or arguments the person appealing wants the appeals officer to consider; and
 - (3) the remedy that the appealing party is seeking.
3. Upon receiving an appeal, the Title IX coordinator must forward the entire appeal to the other party within two business days.
4. The other party may submit a written statement or response to the appeal. The Title IX coordinator must receive the written response within 10 calendar days of sending the notice to the other party.
5. The Title IX coordinator must notify both parties and their advisors of who will determine the appeal and that person's contact information within five business days of receiving the appeal.
6. The Appeal Officer
- a. In the event of an appeal, the appeal officer will be chosen by the appropriate department. If the appealing party is a student, the appointing party is the Vice President for Student Affairs and Enrollment Management or the vice president's designee. If the appealing party is an

employee, the appointing party is the president or the president's designee.

- b. The appeal officer shall be free of bias or conflict of interest.
- c. Either party may submit a written statement to the appeal officer supporting or challenging the decision of the hearing officer or hearing panel.
- d. The appeal officer must receive any written statements within 5 business days of when the Title IX coordinator sent the notice of appeal to the parties.
- e. The appeal officer will review all reports, evidence, and recordings and make a decision within 10 business days.
- f. The appeal officer may:
 - (1) uphold the decision;
 - (2) remand to the hearing officer for reconsideration;
 - (3) order a new investigation with different investigators;
 - (4) overturn the determination of responsibility; or
 - (5) modify the level of discipline.
- g. The appeal officer will simultaneously issue a report to both parties detailing the decision and the rationale for the decision.
- h. The decision of the appeal officer is final.

M. Cooperation

1. Except when a student or employee is the victim, the college requires all students and employees to cooperate in all proceedings under this policy.
2. Failure to cooperate may result in sanctions or corrective action.

N. False Claims

1. Intentional false claims, false statements, or bad faith allegations may result in sanctions or corrective action.
2. The dismissal of a complaint or a finding of not responsible is not evidence that an allegation was false or made in bad faith.