

Title: Title IX Grievance Procedures for Policy SLCC-SS-218

I. INTRODUCTION

The SLCC Title IX Grievance Procedure addresses allegations of Title IX Sexual Harassment subject to the Title IX Regulations adopted by the U.S. Department of Education (USDOE), effective August 14, 2020. Conduct that falls outside the scope of the Title IX Regulations (i.e., other power-based violence) may be addressed by applying SLCC's policies and procedures related to Power-Based Violence or appropriate Human Resource policy. The Title IX Grievance Procedure and its terms supersede any policies pertaining to the investigation or adjudication of "sexual harassment" as defined in this protocol.

II. SCOPE

The USDOE's Title IX Regulations apply to both:

1. Conduct on the basis of sex that constitutes "**sexual harassment**" (§106.30); and
2. Conduct that relates to SLCC's "**education program or activity**" against a person in the United States on or after August 14, 2020.

A. SEXUAL HARASSMENT (§106.30)

Sexual harassment is defined as conduct on the basis of sex that satisfies one or more of the following criteria:

1. An employee of SLCC conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity; and/or
3. "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).

B. EDUCATION PROGRAM OR ACTIVITY

An education program or activity includes locations, events, or circumstances in which SLCC exercises substantial control over both the Respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that

is officially recognized by SLCC. The Title IX Regulations exclude any education program or activity that does not occur in the United States. (§106.44(a).)

Conduct that does not satisfy the USDOE's jurisdictional requirement, such as off-campus behavior alleged to have an on-campus effect, may be addressed under alternative procedures such as the overarching SLCC Policy addressing Power-Based Violence or appropriate Human Resource policy.

III. EQUITABLE TREATMENT

As required by the Title IX Regulations, SLCC's are to treat Complainants and Respondents equitably by: (1) offering Supportive Measures to a Complainant, and (2) following a grievance process that complies with the procedural requirements of the Title IX Regulations before the imposition of any disciplinary sanctions against a Respondent. (§ 106.44(a); § 106.45(b)(1)(i).) Supportive Measures also may be offered as needed to Respondents and other individuals who belong to SLCC's community and who may be affected by sexual harassment.

An individual's status as a Respondent shall not be considered a negative factor during any process under this Procedure. Respondents are entitled to, and will receive the benefit of, a presumption that they are not responsible for the alleged conduct unless and until the process concludes and a determination regarding responsibility is issued. Similarly, a person's status as a Complainant, Respondent, or witness will not determine whether that person is deemed credible. (§ 106.45(b)(1)(ii-iv).)

Remedies are to be provided to a Complainant only if the grievance process described in this Procedure results in a determination that the Respondent is responsible for sexual harassment. Remedies are designed to restore or preserve equal access to SLCC's education program or activity and may include the same individualized services as Supportive Measures. Remedies may be disciplinary and punitive and may burden a Respondent. (§106.45(b)(1)(i).)

Title IX Coordinators, investigators, decision makers, and any person who facilitates an informal resolution process (collectively, Title IX Administrators) will not have a conflict of interest or bias in favor of or against any party or participant in sexual misconduct (i.e., Complainants, Respondents, or Witnesses).

IV. OVERVIEW OF KEY TERMS

For purposes of this Title IX Grievance Procedure, key terms are defined as follows:

Complainant: An individual who is alleged to be the victim of conduct that could constitute sexual harassment.

Formal Complaint: Under the Title IX Grievance Policy, a document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that SLCC investigate the allegation. At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in the education program or activity of SLCC with which

the Formal Complaint is filed. A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, by e-mail, or by any additional method designated by SLCC.

Respondent: An individual alleged to be the perpetrator of conduct that could constitute sexual harassment under Title IX.

Sexual Harassment: Conduct on the basis of sex that satisfies one or more of the following criteria:

1. An employee of SLCC conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity; and/or
3. "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).

Supportive Measures: Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Such measures are designed to restore or preserve equal access to the education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or SLCC's educational environment, or deter sexual harassment. Supportive Measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

V. TIME FRAME TO RESOLVE GRIEVANCE

SLCC policy ensures reasonably prompt initiation, investigation and conclusion of the grievance process, including reasonably prompt time frames for filing and resolving appeals and informal resolution processes, and a process that allows for the temporary delay of the grievance process or the limited extension of time frames for good cause with written notice to the Complainant and the Respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities. Under normal circumstances, most grievance processes will conclude within 60 business days.

VI. FORMAL GRIEVANCE PROCESS

This section outlines the steps taken to initiate a grievance and procedural requirements for investigations and adjudications of Formal Complaints in accordance with federal regulations. The Title IX Coordinator will report all Power-Based Violence and Title IX cases involving employees to the appropriate Human Resource office.

A. FILING A FORMAL COMPLAINT

A Formal Complaint is a document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment as defined by the Title IX Regulations against a Respondent and requesting SLCC investigate the allegation of sexual harassment. The submission of a Formal Complaint and its receipt by the Title IX Coordinator triggers the Formal Grievance Process.

A Formal Complaint must be in writing and may be filed with the Title IX Coordinator online, in person, by mail, or by e-mail. The Formal Complaint must contain the Complainant's physical or digital signature, or some other indication that the Complainant is the person filing it. (§106.30.) At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in the education program or activity.

When SLCC receives an allegation of conduct that falls within the scope of this Title IX Grievance Procedure, whereby it meets both the Title IX Regulations' definition of "sexual harassment" and their jurisdictional requirements (see [Section II](#)), but no Formal Complaint is filed, then the Title IX Regulations prevent SLCC from administering a formal grievance process (including any informal or early resolution) that permits the imposition of any disciplinary sanctions or other actions against a Respondent. Supportive Measures, however, may still be offered.

B. TITLE IX COORDINATOR FILING COMPLAINT

A Title IX Coordinator may sign a Formal Complaint to initiate or continue the Title IX Formal Grievance Procedure, if necessary, to fulfill SLCC's duty under Title IX to not be deliberately indifferent to actual knowledge of sexual misconduct.

Signing a Formal Complaint does not make a Title IX Coordinator a Complainant or otherwise a party.

C. WITHDRAWAL

After filing a Formal Complaint, a Complainant may withdraw their Formal Complaint at any time by providing written notice to the Title IX Coordinator. That withdrawal concludes the Title IX Formal Grievance Procedure process unless the Title IX Coordinator takes action under [Subsection B](#) of this Section.

D. CONSOLIDATION

SLCC, at their discretion, may consolidate Formal Complaints alleging sexual harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances.

E. MANDATORY DISMISSAL

If the conduct alleged in the Formal Complaint does not satisfy the requirements of sexual harassment as defined by §106.30, SLCC must dismiss the Formal Complaint under this grievance process.

However, the Title IX Coordinator will transfer the Complaint to SLCC's policy and procedure for addressing power-based violence for review and possible investigation and resolution.

SLCC will notify the parties simultaneously and in writing that the Formal Complaint is being dismissed for the purposes of the Title IX Grievance Process, and of the transfer if applicable. Each party may appeal this dismissal using the procedures outlined in SLCC's procedure.

F. PERMISSIVE DISMISSAL

SLCC may dismiss a Formal Complaint or any allegations therein, if at any time during the investigation or hearing:

- a. A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein;
- b. The Respondent is no longer enrolled in or employed by SLCC; or
- c. Specific circumstances prevent SLCC from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

Upon dismissal, SLCC must promptly send written notice of the dismissal and reason(s) simultaneously to the parties.

VII. INITIAL STEPS AND DETERMINATION OF APPROPRIATE PROCEDURES

Upon Actual Knowledge of a Report of alleged conduct, the Title IX Office should perform an initial assessment consistent with information outlined in Section X(B) in SLCC's procedure which includes making initial contact with the potential Complainant of the Report and offering information to include Supportive Measures. The Title IX Coordinator will report all Power-Based Violence and Title IX cases involving employees to the appropriate Human Resource office.

If the initial assessment reveals that the alleged conduct does meet the definition of sexual harassment as contained within the USDOE's Title IX Regulations, the investigation must proceed pursuant to the Title IX Formal Grievance Procedures below. If the alleged conduct does not meet the USDOE's definition of sexual harassment, the investigation will proceed pursuant to SLCC's policy and procedure addressing Power-Based Violence or the appropriate Human Resource policy.

VIII. INVESTIGATION

A. NOTICE

Upon receipt of a Formal Complaint, SLCC must provide written notice of the following to known parties:

- a. The investigation and adjudication process, including any informal processes;
- b. Allegations of sexual harassment, including sufficient details known at the time. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident, if known;

- c. A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;
- d. The parties may have an advisor of their choice, who may be, but is not required to be, an attorney;
- e. The parties may inspect and review evidence;
- f. The parties are prohibited from knowingly making false statements or knowingly submitting false information during the investigation and adjudication process; and
- g. If SLCC decides to investigate additional allegations not included in the original notice, it must provide notice of the additional allegations to the parties whose identities are known.

B. INVESTIGATION PROCEDURE

The Title IX Coordinator shall appoint an Investigator to investigate the allegations documented in the Formal Complaint. The investigation may include, among other steps, interviewing the Complainant, the Respondent, and any witnesses; reviewing law enforcement investigation documents if applicable; reviewing relevant student or employment files; and gathering and examining other relevant documents, social media posts, and other evidence.

The Investigator will attempt to collect all relevant information and evidence. Following the investigation, the Investigator will draft an investigation report succinctly describing all collected information. The Investigator will not make any determination as to whether a policy violation has occurred or recommend potential sanctions.

While investigating the allegations of any Formal Complaint of sexual harassment, the Investigator will conduct an objective evaluation of all relevant evidence. Relevant evidence is any evidence that may tend to make the allegations at issue more or less likely to be true. (See §106.45(b)(1)(ii).)

In assessing allegations of sexual harassment, SLCC's policies must state that the standard of evidence to be used to determine responsibility is the Preponderance of the Evidence Standard and apply the same standard of evidence for Formal Complaints against students as for Formal Complaints against employees, including faculty, and apply the same standard of evidence to all Formal Complaints of sexual harassment.

When investigating a Formal Complaint and throughout the investigation and adjudication process, SLCC must:

1. Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on SLCC and not on the parties;
2. Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence;

3. Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence;
4. Provide the parties with the same opportunities to have others present during any investigation or adjudication proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the Complainant or Respondent in any meeting or grievance proceeding; however, SLCC may establish restrictions regarding the extent to which an advisor may participate in the proceedings, as long as the restrictions apply equally to both parties' advisors;
5. Provide written notice to each party of the date, time, location, participants, and purposes of each Formal Grievance Process meeting in which they are invited to participate, with sufficient time for the party to prepare to participate;
6. Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a Formal Complaint, including the evidence upon which SLCC does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to the conclusion of the investigation.
 - i. Prior to completion of the investigative report, SLCC must send the report to each party and the party's advisor, and the parties must have at least 10 business days to submit a written response, which the investigator will consider prior to completion of the investigative report.
 - ii. SLCC must make available at any hearing all such evidence subject to the parties' inspection and review, to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination; and
7. Create an investigative report that fairly summarizes relevant evidence and, at least 10 business days prior to the hearing, send to each party and each party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response.

C. HEARINGS

SLCC will provide for a live hearing. A Decision Maker will consider all of the evidence presented and determine whether a Respondent is responsible for a violation of this protocol. The Decision Maker will not be the same person as the Title IX Coordinator or the investigator. Cases will be adjudicated by a trained third-party Decision Maker.

At the request of either party, SLCC must provide for the live hearing to occur with the parties located in separate rooms, with technology enabling the Decision Maker and parties to simultaneously see and hear the party or the witness answering questions. SLCC will create a transcript or recording (audio or audiovisual) of any adjudicative hearing to be made available to the parties for inspection and review.

Only relevant cross-examination and other questions may be asked of a party or witness by submitting the question(s) in writing to the Decision Maker who will review the question and ask the question if determined to be relevant. Advisors may be present solely to advise or support the party and are prohibited from speaking directly to the Investigator, Decision Maker, other parties, or witnesses during the hearing.

Before a Complainant, Respondent, or witness answers a cross-examination or other question, the Decision Maker) must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. If a party does not have an advisor present at the live hearing, SLCC must provide, without fee or charge to that party, an advisor of SLCC's choice, who may be, but is not required to be, an attorney.

Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

A Decision Maker may consider statements made by parties or witnesses that are otherwise permitted under the regulations, even if those parties or witnesses do not participate in cross-examination at the live hearing, in reaching a determination regarding responsibility in a Title IX grievance process.

Live hearings may be conducted with all parties physically present in the same geographic location or, at SLCC's discretion, any or all parties, witnesses, and other participants appearing at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.

SLCC will create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspection and review.

D. DETERMINATION REGARDING RESPONSIBILITY

The Decision Maker, must issue, simultaneously to both parties, a written determination regarding responsibility, which must include:

- a. Identification of the allegations potentially constituting sexual harassment;
- b. A description of the procedural steps taken from receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- c. Findings of fact supporting the determination;
- d. Conclusions regarding the application of SLCC's policy to the facts;
- e. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any sanctions SLCC will impose on the Respondent, and whether remedies designed to restore or preserve equal access to the education program or activity will be provided to the Complainant; and
- f. Procedures and permissible basis for parties to appeal.

The determination regarding responsibility becomes final either on the date that the recipient provides the parties with the written determination of the result of the appeal, if an appeal is filed or, if an appeal is not filed, the date on which an appeal would no longer be considered timely.

E. SANCTIONS

Factors considered when determining a sanction/responsive action may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- Previous allegations or allegations involving similar conduct
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment, and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation
- The need to remedy the effects of the discrimination, harassment, and/or retaliation on the Complainant and the community
- The impact on the parties
- Any other information deemed relevant by the Decision Maker

The sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested.

The sanctions described in this policy are not exclusive of, and may be in addition to, other actions taken or sanctions imposed by external authorities.

a. STUDENT SANCTIONS EXAMPLES

The following are the usual sanctions¹ that may be imposed upon students or organizations singly or in combination²:

- *Warning*: A formal statement that the conduct was unacceptable and a warning that further violation of any LCTCS or SLCC's policies, procedure, or directive will result in more severe sanctions/responsive actions.
- *Required Counseling*: A mandate to meet with and engage in either LCTCS or SLCC's college-sponsored or external counseling to better comprehend the misconduct and its effects.
- *Probation*: A written reprimand for violation of SLCC policy, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any SLCC policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges,

¹ LCTCS or its colleges' policies on transcript notation will apply to these proceedings.

² Subject to LCTCS or its colleges' Organizational Codes of Conduct.

exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.

- *Suspension*: Termination of student status for a definite period of time not to exceed two years and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure as a student at LCTCS or its colleges.
- *Expulsion*: Permanent termination of student status and revocation of rights to be on campus for any reason or to attend LCTCS or its colleges' college-sponsored events. This sanction will be noted permanently as a Conduct Expulsion on the student's official transcript, subject to any applicable expungement policies.
- *Withholding Diploma*: The LCTCS or SLCC may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities as a sanction if the student is found responsible for an alleged violation.
- *Revocation of Degree*: The LCTCS or SLCC reserve the right to revoke a degree previously awarded from the LCTCS or SLCC for fraud, misrepresentation, and/or other violation of LCTCS or SLCC's policies, procedures, or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
- *Organizational Sanctions*: Deactivation, loss of recognition, loss of some or all privileges (including LCTCS or SLCC's registrations) for a specified period of time.
- *Other Actions*: In addition to or in place of the above sanctions, the LCTCS or SLCC may assign any other sanctions as deemed appropriate.

b. EMPLOYEE SANCTIONS EXAMPLES

Responsive actions for an employee who has engaged in power-based violence, including harassment, discrimination, and/or retaliation include:

- *Warning – Verbal or Written*
- *Performance Improvement/Management Process*
- *Required Counseling*
- *Required Training or Education*
- *Probation*
- *Loss of Annual Pay Increase*
- *Loss of Oversight or Supervisory Responsibility*
- *Demotion*
- *Suspension with pay*
- *Suspension without pay*
- *Termination*
- *Other Actions*: In addition to or in place of the above sanctions, the LCTCS or SLCC may assign any other sanctions as deemed appropriate.

- See LCTCS Policy [6.014 Discipline for All Employees](#)

IX. APPEALS

SLCC must offer both parties an appeal of a determination regarding responsibility, and of a recipient's dismissal of a Formal Complaint or any allegations therein, on the following basis:

- a. A procedural irregularity that affected the outcome of the matter;
- b. New evidence that was not reasonably available at the time that the determination regarding responsibility or dismissal was made, which could affect the outcome of the matter; or
- c. The Title IX Coordinator, investigator(s), or decision maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

SLCC may offer an appeal equally to both parties on additional basis. For all appeals, SLCC must:

1. Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
2. Ensure that the decision maker(s) for the appeal is not the same person as the decision maker(s) who reached the previous determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator;
3. Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
4. Issue a written decision describing the result of the appeal and the rationale for the result; and
5. Provide the written decision simultaneously to both parties.

X. INFORMAL RESOLUTION

At any time prior to reaching a determination regarding responsibility, SLCC may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication. SLCC may not offer an informal resolution process unless a Formal Complaint is filed. SLCC may not require the parties to participate in an informal resolution process and will not require them to waive their rights to a Title IX Formal Grievance process. (§106.45(b)(9).)

SLCC must:

1. Provide written notice to the parties disclosing:
 - i. The allegations;
 - ii. The requirements of the informal resolution process, including the circumstances under which it precludes the parties from resuming a Formal Complaint arising from the same allegations;

- iii. The fact that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the investigation and adjudication process with respect to the Formal Complaint; and
 - iv. Any consequences resulting from participation in the informal resolution process, including the records that will be maintained or could be shared;
2. Obtain the parties' voluntary, written consent to the informal resolution process; and
3. Not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

XI. RECORDKEEPING

SLCC must maintain, for seven (7) years, records of:

1. Each sexual harassment investigation, including any determination regarding responsibility and any audio or audiovisual recording or transcript required, any disciplinary sanctions imposed on the Respondent, and any remedies provided to the Complainant designed to restore or preserve equal access to the education program or activity;
2. Any appeal and the result thereof;
3. Any informal resolution process and the result thereof, and
4. All materials used to train Title IX Coordinators, investigators, decision makers, and any person who facilitates an informal resolution process.

SLCC must make these training materials publicly available on its website.

SLCC must create and maintain for seven (7) years records of any actions, including any Supportive Measures, taken in response to a report or Formal Complaint of Sexual Harassment. In each instance, SLCC must document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to its education program or activity. If SLCC does not provide a Complainant with Supportive Measures, then it must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain basis or measures does not limit SLCC in the future from providing additional explanations or detailing additional measures taken.