



**POLICY FH: EQUAL OPPORTUNITY, HARASSMENT, AND  
NONDISCRIMINATION (BP)**

**CIVIL RIGHTS EQUITY RESOLUTION FOR ALL  
STUDENTS AND EMPLOYEES**

In compliance with the State of Texas Education Code Chapter 51, Subchapter E-3, Section 51.9363, this policy is required to be reviewed by South Plains College each biennium, and with approval of the Board of Regents, revise the policy as necessary.

Policy Revision: January 19, 2024

Administrative Council Approval: February 7, 2024

Board of Regents Approval: March 21, 2024

South Plains College is accredited by the Southern Association of Colleges and Schools Commission on Colleges (SACSCOC) to award associate degrees. South Plains College also may offer credentials such as certificates and diplomas at approved degree levels. Questions about the accreditation of South Plains College may be directed in writing to the Southern Association of Colleges and Schools Commission on Colleges at 1866 Southern Lane, Decatur, GA 30033-4097, by calling (404) 679-4500, or by using information available on SACSCOC's website ([www.sacscoc.org](http://www.sacscoc.org)).

The educational program, degrees and certificates awarded by South Plains College are approved by the Texas Higher Education Coordinating Board. Institutional questions concerning accreditation should be directed to the Vice President for Academic Affairs.

Policy FH –Equal Opportunity, Harassment and Nondiscrimination (BP)

BASED ON THE ATIXA 2022 ONE POLICY, TWO PROCEDURES MODEL. ©2022 ATIXA. USED WITH PERMISSION

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## POLICY FH: Equal Opportunity, Harassment and Nondiscrimination (BP)

### EQUAL OPPORTUNITY, HARASSMENT, AND NONDISCRIMINATION FOR ALL FACULTY, STUDENTS, EMPLOYEES, AND THIRD PARTIES ONE POLICY, TWO PROCEDURES MODEL (1P2P)

#### 1. Glossary

- **Appeal Decision-maker** means the person or panel who accepts or rejects a submitted appeal request, determines whether an error occurred that substantially affected the investigation or original determination, and directs corrective action, accordingly.
- **Case Advisor** means a person chosen by a party or appointed by the institution to accompany the party to meetings related to the resolution process, to advise the party on that process, and to conduct questioning for the party at the hearing, if any.
- **Complainant** means an individual who is alleged to be the victim of conduct that could constitute harassment or discrimination based on a protected characteristic; or retaliation for engaging in a protected activity.
- **Complaint (formal)** means a document submitted or signed by a Complainant or signed by the Title IX Coordinator alleging a Respondent engaged in harassment or discrimination based on a protected characteristic or retaliation for engaging in a protected activity and requesting that South Plains College investigate the allegation(s).
- **Confidential Resource** means an employee who is not a Mandated Reporter of notice of harassment, discrimination, and/or retaliation (irrespective of Clery Act Campus Security Authority status). See Texas Education Code Chapter 51, Subchapter E-2, Section 51.252(c).
- **Day** means a business day when South Plains College is in normal operation.
- **Decision-maker** means the person or panel who hears evidence, determines relevance, and makes the Final Determination of whether this Policy has been violated and/or assigns sanctions.
- **Directly Related Evidence** is evidence connected to the complaint, but which is neither inculpatory (tending to prove a violation) nor exculpatory (tending to disprove a violation) and will not be relied upon by the investigation report or Decision-maker. Compare to **Relevant Evidence** below.
- **Education Program or Activity** means locations, events, or circumstances where South Plains College exercises substantial control over both the Respondent and the context in which the sexual harassment or discrimination occurs and also includes any building owned or controlled by a student organization that is officially recognized by SPC.
- **Final Determination** is a conclusion by preponderance of the evidence that the alleged conduct did or did not violate policy.

- **Finding:** A conclusion by preponderance of the evidence that the conduct did or did not occur as alleged (as in a “finding of fact”).
- **Formal Grievance Process** means “Process A,” a method of formal resolution designated by South Plains College to address conduct that falls within the policies included below, and which complies with the requirements of the Title IX regulations (34 CFR §106.45) and the Violence Against Women Act §304.
- **Grievance Process Pool** includes any investigators, hearing decision-makers, appeal decision-makers, and Case Advisors who may perform any or all of these roles (though not at the same time or with respect to the same complaint).
- **Hearing Decision-maker or Panel** refers to those who have decision-making and sanctioning authority within South Plains College’s Formal Grievance process.
- **Informal Resolution** is a complaint resolution agreed to by the Parties and approved by the Title IX Coordinator that occurs prior to a formal Final Determination being reached.
- **Investigator** means the person(s) charged by South Plains College with gathering facts about an alleged violation of this Policy, assessing relevance and credibility, synthesizing the evidence, and compiling this information into an investigation report and file of Directly Related Evidence.
- **Mandated Reporter** means an employee of South Plains College who is obligated by policy to share knowledge, notice, and/or reports of harassment, discrimination, and/or retaliation with the Title IX Coordinator and/or their supervisor.<sup>1</sup>
- **Notice** means that an employee, student, or third-party informs the Title IX Coordinator or other Official with Authority of the alleged occurrence of harassing, discriminatory, and/or retaliatory conduct.
- **Official with Authority (OWA)** means an employee of South Plains College explicitly vested with the responsibility to implement corrective measures for harassment, discrimination, and/or retaliation on behalf of South Plains College.
- **Parties** include the Complainant(s) and Respondent(s), collectively.
- **Process A** means the Formal Grievance Process detailed below and defined above.
- **Process B** means the administrative resolution procedures detailed in [Appendix E](#) that apply only when Process A does not, as determined by the Title IX Coordinator.
- **Recipient or South Plains College (SPC)** means a postsecondary education program that is a recipient of federal funding.
- **Relevant Evidence** is evidence that tends to prove (inculpatory) or disprove (exculpatory) an issue in the complaint.

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<sup>1</sup> Not to be confused with those mandated by state law to report child abuse, elder abuse, and/or abuse of individuals with disabilities to appropriate officials, though these responsibilities may overlap with those who have mandated reporting responsibility in this Policy.

- **Remedies** are post-Final Determination actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to South Plains College’s educational program.
- **Respondent** means an individual who has been reported to be the perpetrator of conduct that could constitute harassment or discrimination based on a protected characteristic; or retaliation for engaging in a protected activity under this policy.
- **Resolution** means the result of an Informal Resolution or Formal Grievance Process.
- **Sanction** means a consequence imposed by South Plains College on a Respondent who is found to have violated this policy.
- **Sexual Harassment** is an umbrella category including the offenses of sexual harassment, sexual assault, stalking, and dating violence and domestic violence. [See Section 19.b.](#), for greater detail.
- **Student** means any individual who has accepted an offer of admission, or who is registered or enrolled for credit or non-credit bearing coursework, and who maintains an ongoing educational relationship with the Recipient.
- **Title IX Coordinator** is at least one official designated by South Plains College to ensure compliance with Title IX and SPC’s Title IX program. References to the Coordinator throughout this policy may also encompass a designee of the Coordinator for specific tasks.
- **Title IX Team** refers to the Title IX Coordinator, any deputy coordinators, and any member of the Grievance Process Pool.

## 2. Rationale for Policy

South Plains College is committed to providing a workplace and educational environment, as well as other benefits, programs, and activities, that are free from discrimination and harassment based on a protected characteristic, and retaliation for engaging in a protected activity.

South Plains College values and upholds equal dignity of all members of its community and strives to balance the rights of the parties in the grievance process during what is often a difficult time for all involved.

To ensure compliance with federal, state and local civil rights laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the educational program or activity, SPC has developed policies and procedures that provide a prompt, fair, and impartial process for those involved in an allegation of discrimination or harassment on the basis of a protected characteristic, and for allegations of retaliation.

## 3. Applicable Scope

The core purpose of this policy is the prohibition of all forms of discrimination. Sometimes, discrimination involves exclusion from or different treatment in activities, such as admission, athletics, or employment. Other times, discrimination takes the form of harassment or, in the case of sex-based discrimination, can encompass sexual harassment, sexual assault, stalking, sexual exploitation, dating violence or domestic violence. When an alleged policy violation is reported, the allegations are subject to resolution using South

Plains College’s “Process A” or “Process B<sup>2</sup>,” as determined by the Title IX Coordinator or Human Resources Director, and as detailed below.

When the Respondent is a member of South Plains College community, a Formal Complaint may be filed and a grievance process may be available regardless of the status of the Complainant, who may or may not be a member of SPC community. This community includes, but is not limited to, students,<sup>3</sup> student organizations, faculty, administrators, staff, and third parties such as guests, visitors, volunteers, vendors, contractors, invitees, and campers. The procedures below may be applied to incidents, to patterns, and/or to the institutional culture/climate, all of which may be addressed and investigated in accordance with this policy.

South Plains College recognizes that reports and/or Formal Complaints under this policy may include multiple forms of discrimination and harassment as well as violations of other SPC policies; may involve various combinations of students, employees, and other members of the SPC community; and may require the simultaneous attention of multiple SPC departments. Accordingly, all SPC departments will share information, combine efforts, and otherwise collaborate, to the maximum extent permitted by law and consistent with other applicable SPC policies, to provide uniform, consistent, efficient, and effective responses to alleged discrimination and harassment or retaliation.

#### **4. Policy Dissemination**

South Plains College disseminates this policy and associated procedures to the SPC community (including students and employees) via electronic mail at the beginning of each semester. This policy and procedures are also included in the SPC student and employee handbooks at <https://www.southplainscollege.edu>. A webpage has been created that is dedicated solely to this policy that is easily accessible through a clearly identifiable link at <https://www.southplainscollege.edu/about/campussafety/sah.php>.

#### **5. Title IX Coordinator**

The Vice President for Student Affairs serves as the Title IX Coordinator and ADA/504 Coordinator and oversees implementation of South Plains College’s Affirmative Action and Equal Opportunity plan, disability compliance, and South Plains College’s policy on equal opportunity, harassment, and nondiscrimination.

The Title IX Coordinator has the primary responsibility for coordinating SPC’s efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent discrimination, harassment, and retaliation prohibited under this policy.

All parties will be provided with a comprehensive (electronic or physical) brochure detailing options and resources, which the Title IX Coordinator may also review with the parties in person.

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<sup>2</sup> Complaint occurring before August 14, 2020 can be resolved using Process B.

<sup>3</sup> For the purpose of this policy, South Plains College defines “student” as any individual who has accepted an offer of admission, or who is registered or enrolled for credit or non-credit bearing coursework, and who maintains an ongoing relationship with South Plains College.

## 6. Independence and Conflict of Interest

The Title IX Coordinator manages the Title IX Team and acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this policy and these procedures. The members of the Title IX Team are vetted and trained to ensure they are not biased for or against any party in a specific complaint, or for or against Complainants and/or Respondents, generally.

To raise any concern involving bias, conflict of interest, misconduct, or discrimination by the Title IX Coordinator, contact South Plains College President Dr. Robin Satterwhite at (806) 716-2201 or at [rsatterwhite@southplainscollege.edu](mailto:rsatterwhite@southplainscollege.edu). Concerns of bias, misconduct, or discrimination, or a potential conflict of interest by any other Title IX Team member should be raised with the Title IX Coordinator.

Reports of misconduct or discrimination committed by the Title IX Coordinator should be reported to South Plains College President Dr. Robin Satterwhite (806) 716-2201 or at [rsatterwhite@southplainscollege.edu](mailto:rsatterwhite@southplainscollege.edu) or designee. Reports of misconduct or discrimination committed by any other Title IX Team member should be reported to the Title IX Coordinator.

## 7. Administrative Contact Information

Complaints or notice of alleged policy violations, or inquiries about or concerns regarding this policy and procedures, may be made internally to:

Stan DeMerritt, Ph.D.  
Title IX Coordinator  
Office of the Vice President for Student Affairs  
1401 S. College Avenue  
Student Services Building  
Levelland, TX 79336  
(806) 716-2360      [complaints@southplainscollege.edu](mailto:complaints@southplainscollege.edu)

SPC has determined that the following administrators are Officials with Authority to address and correct harassment, discrimination, and/or retaliation. These Officials with Authority listed below may also accept notice or complaints on behalf of South Plains College.

### Deputy Title IX Coordinators

Ms. Jeri Ann Dewbre  
Director of Human Resources  
(806) 716-2111  
[jdewbre@southplainscollege.edu](mailto:jdewbre@southplainscollege.edu)

Ms. Kara Martinez  
Dean of the Lubbock Downtown Center  
(806) 716-4700  
[kmartinez@southplainscollege.edu](mailto:kmartinez@southplainscollege.edu)

Mr. Ben Alexander  
Executive Director of the Lubbock Center  
(806) 716-4608  
[bealexander@southplainscollege.edu](mailto:bealexander@southplainscollege.edu)

Ms. Victoria Huffhines  
Director of the Plainview Center  
(806) 716-2301  
[vhuffhines@southplainscollege.edu](mailto:vhuffhines@southplainscollege.edu)

Mr. Jacob Braddock  
Director of the Reese Center  
(806) 716-4877  
[jbraddock@southplainscollege.edu](mailto:jbraddock@southplainscollege.edu)

SPC has also classified most employees as Mandated Reporters of any knowledge they have that a member of the community is experiencing harassment, discrimination, and/or retaliation. The section below on Mandated Reporting details employee responsibilities accordingly.

Inquiries may be made externally to:

Office for Civil Rights (OCR) – Dallas, Texas Office  
1999 Bryan Street, Suite 1620  
Dallas, TX 75201-6810  
Customer Service Hotline: (800) 421-3481  
Telephone: (214) 661-9600  
Facsimile: (214) 661-9587  
TDD: (800) 877-8339  
Email: [OCR.Dallas@ed.gov](mailto:OCR.Dallas@ed.gov)  
Web: <http://www.ed.gov/ocr>

Office for Civil Rights (OCR)  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, D.C. 20202-1100  
Customer Service Hotline #: (800) 421-3481  
Facsimile: (202) 453-6012  
TDD#: (877) 521-2172  
Email: [OCR@ed.gov](mailto:OCR@ed.gov)  
Web: <http://www.ed.gov/ocr>

For complaints involving employees:

Equal Employment Opportunity Commission (EEOC) – El Paso Area Office  
100 Stanton Towers  
100 N. Stanton Street, Suite 600  
El Paso, TX 79901-1433  
Telephone: (800) 669-4000  
Facsimile: (915) 534-6701  
TTY: (800) 669-6820  
ASL Video Phone: (844) 234-5122  
Online inquiry/appointment scheduler: <https://publicportal.eeoc.gov/portal/>  
Web: <http://www.eeoc.gov>

## 8. Notice/Complaints of Discrimination, Harassment, and/or Retaliation

Notice or complaints of discrimination, harassment, and/or retaliation may be made using any of the following options:

- 1) File a report or Formal Complaint with, or give verbal notice to, the Title IX Coordinator or deputy/deputies/Officials with Authority. Contact information for several of these contacts are listed in [section 7](#) above. Such a report or Formal Complaint may be made at any time (including during non-business hours) by using the telephone number or email address, or by mail to the office address, listed for the Title IX Coordinator or any other official listed.
- 2) Report online, using the reporting form posted at <http://www.southplainscollege.edu/about/campussafety/sah.php>. Anonymous reports are accepted but can give rise to a need to investigate to determine if the parties can be identified. If not, no further formal action is taken, though measures intended to protect the community may be enacted. South Plains College tries to provide supportive measures to all Complainants, which may be impossible with an anonymous report. Because reporting carries no obligation to initiate a formal response, and because South Plains College respects Complainant requests to dismiss complaints unless there is a compelling threat to health and/or safety, the Complainant is largely in control and should not fear a loss of confidentiality by making a report that allows South Plains College to discuss and/or provide supportive measures.
- 3) Report using the harassment/discrimination hotline at (806) 716-2396.

As used in this policy, the term “Formal Complaint” means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by South Plains College) that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the complaint, and requests that South Plains College investigate the allegations. If notice is submitted in a form that does not meet this standard, the Title IX Coordinator will contact the Complainant to ensure that it is filed correctly.

## 9. Supportive Measures

South Plains College will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged harassment, discrimination, and/or retaliation.

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate and as reasonably available. They are offered, without fee or charge to the parties, to restore or preserve access to South Plains College’s education program or activity, including measures designed to protect the safety of all parties or SPC’s educational environment, and/or deter harassment, discrimination, and/or retaliation.

The Title IX Coordinator promptly makes supportive measures available to the parties upon receiving notice or a complaint. At the time that supportive measures are offered, South Plains College will inform the Complainant, in writing, that they may make a Formal Complaint with South Plains College either at that time or in the future, if they have not done so already. The Title IX Coordinator works with the Complainant to ensure that their wishes are considered with respect to any planned and implemented supportive measures.

South Plains College will maintain the confidentiality of the supportive measures, provided that confidentiality does not impair SPC’s ability to provide the supportive measures. SPC will act to ensure as

minimal an academic/occupational impact on the parties as possible. SPC will implement measures in a way that does not unreasonably burden the other party.

These actions may include, but are not limited to:

- Student referral to the Office of Health and Wellness
- Employee referral to the Employee Assistance Program
- Referral to community-based service providers
- Visa and immigration assistance
- Student financial aid counseling
- Education to the institutional community or community subgroup(s)
- Altering campus housing assignment(s)
- Altering work arrangements for employees or student-employees
- Safety planning
- Providing campus safety escorts
- Providing transportation assistance
- Implementing contact limitations (no contact orders) between the parties
- Academic support, extensions of deadlines, or other course/program-related adjustments
- Trespass, Persona Non Grata (PNG), or Be-On-the-Lookout (BOLO) orders
- [Timely warnings](#)
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title IX Coordinator
- Coordination and consultation with the Office of Disability Service as needed

Violations of no contact orders or other restrictions may be referred to appropriate student or employee conduct processes for enforcement or added as collateral misconduct allegations to an ongoing complaint under this policy.

## 10. Prevention and Outreach Programs

South Plains College has implemented comprehensive prevention and outreach programs to address issues of sexual harassment, sexual assault, dating violence, and stalking. These programs address a range of strategies to prevent sexual harassment, sexual assault, dating violence, and stalking, including a victim empowerment program, a public awareness campaign, primary prevention, bystander intervention, and risk reduction.

SPC requires entering first-year students and undergraduate transfer students to attend an online orientation on this policy during the first semester or term in which the student is enrolled.

Additional information is found in [Section 27. Training Obligations](#).

## 11. Emergency Removal

South Plains College can act to remove a student Respondent entirely or partially from its education program or activities – partially or entirely – on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal. This risk analysis is performed by the Title IX Coordinator in conjunction with the behavioral intervention team (CARE Team) using its standard objective violence risk assessment procedures.

When an emergency removal is imposed, the student will be given notice of the action and the option to request to meet with the Title IX Coordinator prior to such action/removal being imposed, or as soon thereafter as reasonably possible thereafter, to show cause why the action/removal should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate. When this meeting is not requested, objections to the emergency removal will be deemed waived. A Complainant and their Case Advisor may be permitted to participate in this meeting if the Title IX Coordinator determines it is equitable to do so. This section also applies to any restrictions that a coach or athletic administrator may place on a student-athlete arising from allegations related to Title IX. There is no appeal process for emergency removal decisions.

A Respondent may be accompanied by a Case Advisor of their choice when meeting with the Title IX Coordinator for the show cause meeting. The Respondent will be given access to a written summary of the basis for the emergency removal prior to the meeting to allow for adequate preparation.

The Title IX Coordinator has sole discretion under this policy to implement or modify an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this policy will be grounds for discipline within the student or employee processes, which may include expulsion or termination.

South Plains College will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. As determined by the Title IX Coordinator, with the assistance of the Human Resources Director in employee matters, these actions could include, but are not limited to: removing a student from a residence hall, temporarily re-assigning an employee, restricting a student's or employee's access to or use of facilities or equipment, allowing a student to withdraw or take incomplete grades without financial penalty, authorizing an administrative leave, and suspending a student's participation in extracurricular activities, student employment, student organizational leadership, or intercollegiate/intramural/club athletics.

At the discretion of the Title IX Coordinator, alternative coursework options may be pursued to ensure as minimal an academic impact as possible on the parties as possible.

Where the Respondent is an employee, or a student employee, accused of misconduct in the course of their employment, existing provisions for interim action are applicable instead of the above emergency removal process.

## **12. Promptness**

All allegations are acted upon promptly by South Plains College once it has received notice or a Formal Complaint. Complaints can take 60-90 business days to resolve, typically. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, but SPC will avoid all undue delays within its control.

Any time the general timeframes for resolution outlined in South Plains College procedures will be delayed, SPC will provide written notice to the parties of the delay, the cause for the delay, and an estimate of the anticipated additional time that will be needed as a result of the delay.

### 13. Confidentiality/Privacy

Every effort is made by South Plains College to preserve the confidentiality of reports.<sup>4</sup> SPC will not share the identity of any individual who has made a report or Formal Complaint of harassment, discrimination, or retaliation; any Complainant, any individual who has been reported to be the perpetrator of sex harassment, discrimination, or retaliation; any Respondent, or any witness, except as permitted by the Family Educational Rights and Privacy Act (FERPA) or its implementing regulations, 20 U.S.C. 1232g; FERPA regulations, 34 CFR part 99; or as required by law; or to carry out the purposes of 34 CFR Part 106, including any investigation, hearing, or grievance proceeding arising under these policies and procedures.

Chapter 51, Section 51.256, of the Texas Education Code states that the identity of the following individuals is confidential and not subject to external disclosure unless waived in writing:

- (1) a Complainant,
- (2) an individual who reports an alleged violation of this policy or has sought guidance from the institution regarding an alleged violation of this policy,
- (3) a witness, or
- (4) a Respondent.

The identity of the aforementioned individuals may only be disclosed to:

- 1) Persons employed by or under contract with the institution to which the report is made who are necessary to investigate the allegations or attend any related hearings.
- 2) A law enforcement officer as necessary to conduct a criminal investigation of the report.
- 3) A health care provider in an emergency situation, as determined necessary by the Recipient.
- 4) The person or persons alleged to have perpetrated the incident, to the extent required by other law.
- 5) Potential witnesses to the incident as necessary to investigate the allegations.

South Plains College reserves the right to determine which College officials have a legitimate educational interest in being informed about incidents that fall under this policy, pursuant to the Family Educational Rights and Privacy Act (FERPA).

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<sup>4</sup> For the purpose of this policy, privacy and confidentiality have distinct meanings. **Privacy** means that information related to a complaint will be shared with a limited number of South Plains College employees who “need to know” in order to assist in the assessment, investigation, and resolution of the report. All employees who are involved in the College’s response to notice under this policy receive specific training and guidance about sharing and safeguarding private information in accordance with state and federal law. The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act (“FERPA”), as outlined in South Plains College’s [Student Records Policy](#) and in the General Academic Catalog at <http://catalog.southplainscollege.edu>. The privacy of employee records will be protected in accordance with Human Resources policies. **Confidentiality** exists in the context of laws (including Title IX) that protect certain relationships, including those who provide services related to medical and clinical care, mental health providers, counselors, and ordained clergy. The law creates a privilege between certain health care providers, mental health care providers, attorneys, clergy, spouses, and others, with their patients, clients, parishioners, and spouses. South Plains College has designated individuals who have the ability to have privileged communications as Confidential Resources. For more information about Confidential Resources, [see Section 21A](#). When information is shared by a Complainant with a Confidential Resource, the Confidential Resource cannot reveal the information to any third party except when an applicable law or a court order requires or permits disclosure of such information. For example, information may be disclosed when: (i) the individual gives written consent for its disclosure; (ii) there is a concern that the individual will likely cause serious physical harm to self or others; or (iii) the information concerns conduct involving suspected abuse or neglect of a minor under the age of 18, elders, or individuals with disabilities. Non-identifiable information may be shared by Confidential Resources for statistical tracking purposes as required by the federal Clery Act. Other information may be shared as required by law.

Only a small group of officials who need to know will typically be told about the complaint, including but not limited to: Vice President for Student Affairs (Title IX Coordinator), Division of Student Affairs, Human Resources Director, SPC Campus Police, and the Behavioral Intervention/Threat Assessment (CARE) Team. Information will be shared as necessary with Investigators, Decision-makers, witnesses, and the parties. The circle of people with this knowledge will be kept as tight as possible to preserve the parties' rights and privacy.

South Plains College may contact parents/guardians to inform them of situations in which there is a significant and articulable health and/or safety risk but will usually consult with the student first before doing so.

Confidentiality and mandated reporting are addressed more specifically [below in section 21](#).

## 14. Jurisdiction

This policy applies to the educational program and activities (including the work environment) of South Plains College to conduct that takes place on the campus or on property owned or controlled by South Plains College, at SPC-sponsored events, or in buildings owned or controlled by SPC's recognized student organizations. The Respondent must be a member of SPC's community in order for its policies to apply. The College will use the Association for Title IX Administrators (ATIXA) [Online Jurisdiction Rubric](#) for determination of applicability [<https://atixa.org/products-and-services/atixa-jurisdictional-rubric/>](password Rubric2020).

This policy can also be applicable to the effects of off-campus misconduct that effectively deprives a person of access to the College's educational program or activities. South Plains College may also extend jurisdiction to off-campus and/or to online conduct when the Title IX Coordinator, or the Human Resources Director in employee Complaints, determines that the conduct affects a substantial College interest.

Regardless of where the conduct occurred, South Plains College will address notice/complaints to determine whether the conduct occurred in the context of its employment or educational program or activity and/or has continuing effects on campus (including virtual learning and employment environments) or in an off campus sponsored program or activity. A substantial SPC interest includes:

- 1) Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law.
- 2) Any situation in which it is determined that the Respondent poses an immediate threat to the physical health or safety of any student or other individual.
- 3) Any situation that significantly impinges upon the rights, property, or achievements of others or significantly breaches the peace and/or causes social disorder.
- 4) Any situation that substantially interferes with the educational interests or mission of South Plains College.

If the Respondent is unknown or is not a member of the South Plains College community, the Title IX Coordinator will assist the Complainant in identifying appropriate campus and local resources and support options. If criminal conduct is alleged, SPC can assist in contacting local or campus law enforcement if the individual would like to file a police report.

Further, even when the Respondent is not a member of South Plains College's community, supportive measures, remedies, and resources may be accessible to the Complainant by contacting the Title IX

Coordinator, dean or director of external centers, the Dean of Students, SPC Campus Police, or the Health and Wellness Office.

In addition, South Plains College may take other actions as appropriate to protect the Complainant against third parties, such as barring individuals from College property and/or events.

All vendors serving South Plains College through third-party contracts are subject to the policies and procedures of their employers and to these policies and procedures to which their employer has agreed to be bound by their contracts.

When the Respondent is enrolled in or employed by another institution, the Title IX Coordinator, or the Human Resources Director for non-student issues, can assist the Complainant in liaising with the appropriate individual at that institution, as it may be possible to pursue action under that institution's policies.

Similarly, the Title IX Coordinator, or the Human Resources Director for employee issues, may be able to assist and support a student or employee Complainant who experiences discrimination in an externship, study abroad program, or other environment external to South Plains College where sexual harassment or nondiscrimination policies and procedures of the facilitating or host organization may give Complainant recourse.

## **15. Time Limits on Reporting**

There is no time limitation on providing notice/complaints to the Title IX Coordinator. However, if the Respondent is no longer subject to South Plains College's jurisdiction and/or significant time has passed, the ability to investigate, respond, and/or provide remedies may be more limited or impossible.

Acting on notice/complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of policy) is at the discretion of the Title IX Coordinator, who may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

When notice/complaint is affected by significant time delay, South Plains College will typically apply the policy in place at the time of the alleged misconduct and the procedures in place at the time of notice/complaint. Typically, this policy is only applied to alleged incidents that occurred after August 14, 2020. For alleged incidents that occurred prior to August 14, 2020, previous versions of this Policy will apply. Those versions are available from the Title IX Coordinator.

## **16. Online Harassment and Misconduct**

The policies of South Plains College are written and interpreted broadly to include online manifestations of any of the behaviors prohibited below, when those behaviors occur in or have an effect on the College's education program and activities or use SPC networks, technology, or equipment.

Although the College may not control websites, social media, and other venues through which harassing communications are made, when such communications are reported to SPC, it will engage in a variety of means to address and mitigate the effects.

Members of the community are encouraged to be good digital citizens and to refrain from online misconduct, such as feeding anonymous gossip sites; sharing inappropriate content via social media; unwelcome sexual or sex-based messaging; distributing, or threatening to distribute, nude or semi-nude photos or recordings;

breaches of privacy; or otherwise using the ease of transmission and/or anonymity of the Internet or other technology to harm another member of South Plains College community.

Any online posting or other electronic communication by students, including cyber-bullying, cyber-stalking, cyber-harassment, etc., occurring completely outside of South Plains College's control (e.g., not on SPC networks, websites, or between SPC email accounts) will only be subject to this policy when those on-line behaviors can be shown to cause a substantial on-campus disruption.

Otherwise, such communications are considered speech protected by the United States Constitution's First Amendment. Supportive measures for Complainants will be provided, but legally protected speech cannot be subjected to discipline.

Off-campus harassing speech by employees, whether online or in person, may be regulated by South Plains College only when such speech is made in an employee's official or work-related capacity.

## **17. Policy on Nondiscrimination**

South Plains College adheres to all federal and state civil rights laws and regulations prohibiting discrimination in public institutions of higher education.

### **A. Protected Characteristics**

The College does not discriminate against any employee, applicant for employment, student, or applicant for admission on the basis of:

- Race,
- Color,
- National origin (including ancestry),
- Religion,
- Sex,
- or any other protected characteristic under applicable local, state, or federal law, including protections for those opposing discrimination or participating in any grievance process on campus with the Equal Employment Opportunity Commission, or other human rights agencies.

This policy covers nondiscrimination in both employment and access to educational opportunities. Therefore, any member of South Plains College community whose acts deny, deprive, or limit the educational or employment or residential and/or social access, benefits, and/or opportunities of any member of South Plains College community, guest, or visitor on the basis of that person's actual or perceived membership in the protected characteristics listed above is in violation of South Plains College policy on nondiscrimination.

When brought to the attention of South Plains College, any such discrimination will be promptly and fairly addressed and remedied by South Plains College according to the appropriate grievance process described below.

### **B. Gender Identity/Expression**

South Plains College strives to ensure that all individuals are safe, included, and respected in their working and learning environments, regardless of their gender identity or expression.

Discrimination on the basis of gender identity or expression is not tolerated by South Plains College. If a member of the SPC community feels they have been subjected to discrimination under this policy, they should follow the appropriate reporting/Formal Complaint process described above.

SPC supports the full integration and healthy development of those who are transgender, transitioning, or gender diverse, and seeks to eliminate any stigma related to gender identity and expression.

Concepts like misgendering and deadnaming may not be familiar to all but understanding them is essential to SPC's goal of being as welcoming a community as possible. Intentional misgendering and deadnaming is inconsistent with the vision and mission of South Plains College and could be a form of bullying, outing, or otherwise harassing an individual, and thus should be avoided.

- Misgendering is the intentional or unintentional use of pronouns or identifiers that are different from those used by an individual.
- Deadnaming means using someone's birth-assigned (cisgender) name, rather than the name they have chosen.

This policy should be interpreted consistent with the goals of the college mission statement by:

- Maintaining the privacy of all individuals consistent with law
- Ensuring all students equal access to educational programming, activities, and facilities, including restrooms and locker rooms
- Ensuring all employees equal access to employment opportunities and work, service, or health-related facilities
- Providing optional professional development for employees and optional education for students on topics related to gender inclusion
- Encouraging all students and employees to respect the pronoun usage and identities of all members of the SPC community

## **18. Disability Discrimination and Accommodation Policy**

South Plains College is committed to full compliance with the Americans with Disabilities Act of 1990 (ADA), as amended, and Section 504 of the Rehabilitation Act of 1973, which prohibit discrimination against qualified persons with disabilities, as well as other federal and state laws and regulations pertaining to individuals with disabilities.

Under the ADA and its amendments, a person has a disability if they have a physical or mental impairment that substantially limits a major life activity.

The ADA also protects individuals who have a record of a substantially limiting impairment or who are regarded as disabled by South Plains College, regardless of whether they currently have a disability. A substantial impairment is one that significantly limits or restricts a major life activity such as hearing, seeing, speaking, breathing, performing manual tasks, walking, or caring for oneself.

The Vice President for Student Affairs has been designated as the College's ADA/504 Coordinator responsible for overseeing efforts to comply with these disability laws, including responding to grievances and conducting investigations of any allegation of noncompliance or discrimination based on disability.

Grievances related to disability status and/or accommodation will be addressed using the procedures below. For details relating to disability accommodations in South Plains College's resolution process, the Student Guide at <http://catalog.southplainscollege.edu>.

### **A. Students with Disabilities**

South Plains College is committed to providing qualified students with disabilities with reasonable accommodations and support needed to ensure equal access to the academic programs, facilities, and activities of South Plains College.

All accommodations are made on an individualized basis. A student requesting any accommodation should first contact the Office of Disability Services.

The Disability Services staff review documentation provided by the student and, in consultation with the student, determine which accommodations are appropriate for the student's particular needs and academic program(s) in accordance with the College's applicable policies.

### **B. Employees with Disabilities**

Pursuant to the ADA, South Plains College will provide reasonable accommodation(s) to all qualified employees with known disabilities when their disability affects the performance of their essential job functions, except when doing so would be unduly disruptive or would result in undue hardship to the College.

An employee with a disability is responsible for submitting an accommodation request to the Human Resources Director and providing necessary documentation. The Human Resources Director will work with the employee's supervisor to identify which essential functions of the position are affected by the employee's disability and what reasonable accommodations could enable the employee to perform those duties in accordance with the College's applicable policies.

## **19. Discriminatory Harassment Policy**

(See [SPC Policy DDE Employee Conduct and Work Rules](#) for additional information related to unacceptable employee conduct.)

Students and employees are entitled to an employment and educational environment that is free of discriminatory harassment. South Plains College's harassment policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane, but controversial, or sensitive subject matters protected by academic freedom.

The sections below describe the specific forms of legally prohibited harassment that are also prohibited under SPC policy. When speech or conduct is protected by academic freedom and/or the First Amendment, it will not be considered a violation of College policy, though supportive measures will be offered to those impacted. All offense definitions encompass actual and/or attempted offenses.

### **A. Discriminatory Harassment**

Discriminatory harassment – defined as unwelcome conduct by any member or group of the community on the basis of actual or perceived characteristic protected by policy or law – is a form of prohibited discrimination under College policy.

South Plains College does not tolerate discriminatory harassment of any employee, student, visitor, or guest. SPC will act to remedy all forms of harassment when reported, whether or not the harassment rises to the level of creating a **“hostile environment.”**

A **hostile environment** is one that unreasonably interferes with, limits, or effectively denies an individual's educational or employment access, benefits, or opportunities.<sup>5</sup> This discriminatory effect results from harassing verbal, written, graphic, and/or physical conduct that is severe or pervasive **and** objectively offensive.

When discriminatory harassment rises to the level of creating a hostile environment, South Plains College may also impose sanctions on the Respondent through application of the appropriate grievance process below.

South Plains College reserves the right to address offensive conduct and/or harassment that 1) does not rise to the level of creating a hostile environment, or 2) that is of a generic nature and not based on a protected characteristic. Addressing such conduct will not result in the imposition of discipline under SPC policy, but may be addressed through respectful conversation, remedial actions, education, effective Alternative Resolution, and/or other Informal Resolution mechanisms.

For assistance with Alternative Resolution and other Informal Resolution techniques and approaches, employees should contact the Human Resources Director, and students should contact the Dean of Students or the respective center dean/director.

## **B. Sexual Harassment**

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the State of Texas ([TEC 51.251\(5\)](#)) regard Sexual Harassment, a specific form of discriminatory harassment, as an unlawful discriminatory practice.<sup>6</sup>

Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity/expression of those involved. Examples are available in [Appendix A](#).

South Plains College has adopted the following definitions of Sexual Harassment in order to address the unique environment of an academic community. Two definitions are required by federal law, and the others by state law. While they overlap, they are not identical, and they each apply as noted.

**Texas Student Sexual Harassment** applies to all complaints in which the Respondent is a student:<sup>7</sup>

- a. Unwelcome,
- b. sex-based,
- c. verbal or physical conduct that,
- d. is sufficiently severe, persistent, or pervasive that the conduct interferes with a student's ability to participate in or benefit from educational programs or activities.

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<sup>5</sup> This definition of hostile environment is based on Federal Register / Vol. 59, No. 47 / Thursday, March 10, 1994: [Department of Education Office for Civil Rights, Racial Incidents and Harassment Against Students At Educational Recipients Investigative Guidance](#). This definition should be used to address complaints that fall within Title VII.

<sup>6</sup> South Plains College provides student and on rare occasion employee temporary housing. Therefore, if the sexual harassment occurs in an SPC-owned residence with a residential Complainant, then the HUD/FHA definition of sexual harassment, which tracks the Title VII definition below, will also apply.

<sup>7</sup> TX Educ. Code Chapter 51, Subchapter E-2, Section 51.251. This definition of sexual harassment will be used in addition to and when formal complaints of student-on-student Title IX Sexual Harassment are mandatorily dismissed. See section on Dismissal outlined below

**Texas Employee Sexual Harassment** applies to all complaints in which any party is an employee:<sup>8</sup>

- a. unwelcome sexual advances,
- b. request for sexual favors,
- c. or any other verbal or physical conduct of a sexual nature if:
  - i. submission to the advance, request, or conduct is made a term or condition of an individual's employment, either explicitly or implicitly;
  - ii. submission to or rejection of the advance, request, or conduct by an individual is used as the basis for a decision affecting the individual's employment;
  - iii. the advance, request, or conduct has the purpose or effect of unreasonably interfering with an individual's work performance; or
  - iv. the advance, request, or conduct has the purpose or effect of creating an intimidating, hostile, or offensive working environment.

**Title VII/FHA Sexual Harassment** applies to situations where an employee is subjected to workplace sexual harassment or where a situation involves a residential Complainant in SPC-provided housing.

- a. Unwelcome verbal, written, graphic, and/or physical conduct;
- b. that is severe or pervasive and objectively offensive;
- c. on the basis of sex/gender, that
- d. unreasonably interferes with, limits, or effectively denies an individual's educational or employment access, benefits, or opportunities.

**Title IX Sexual Harassment**, as an umbrella category, includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking. This definition applies to all formal complaints that fall within Title IX jurisdiction as determined by the Title IX Coordinator. Sexual harassment includes:

Conduct on the basis of sex/gender<sup>9</sup> or that is sexual that satisfies one or more of the following:

**1) Quid Pro Quo:**

- a. an employee of South Plains College,
- b. conditions (implicitly or explicitly) the provision of an aid, benefit, or service of South Plains College,
- c. on an individual's participation in unwelcome sexual conduct.

**2) Sexual Harassment (Hostile Environment):**

- a. unwelcome conduct,
- b. determined by a reasonable person,
- c. to be so severe, and
- d. pervasive, and,
- e. objectively offensive,

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<sup>8</sup> Texas Labor Code Subchapter C-1. This definition of sexual harassment will be used in addition to **and** when formal complaints of Title IX Sexual Harassment involving an employee Complainant are mandatorily dismissed. See section on [Dismissal](#) outlined below.

<sup>9</sup> Including gender identity, gender expression, sexual orientation, and sex stereotypes.

- f. that it effectively denies a Complainant equal access to South Plains College education program or activity.<sup>10</sup>

**3) Sexual assault, defined as:**

- a. Any sexual act directed against<sup>11</sup> a Complainant<sup>12</sup>,
- o without their consent, or
  - o instances in which the Complainant is incapable of giving consent.
- b. Incest:
- o Non-forcible sexual intercourse,
  - o between persons who are related to each other,
  - o within the degrees wherein marriage is prohibited by Texas law(Texas Family Code 2.004,(6)).
- c. Statutory Rape:
- o Non-forcible sexual intercourse,

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<sup>10</sup> Unwelcomeness is subjective and determined by the Complainant (except when the Complainant is younger than the age of consent). Severity, pervasiveness, and objective offensiveness are evaluated based on the totality of the circumstances from the perspective of a reasonable person in the same or similar circumstances (“in the shoes of the Complainant”), including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced. This definition is broad enough to potentially encompass forms of sex-based disparate treatment, even if not harassing in nature.

<sup>11</sup> A ‘sexual act’ is specifically defined by federal regulations to include one or more of the following:

Rape:

- The carnal knowledge of a Complainant OR Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person,
- without the consent of the Complainant.
- including instances where they are incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

Sodomy:

- Oral or anal sexual intercourse with another person,
- forcibly, and/or
- against that person’s will (non-consensually), or
- not forcibly or against the person’s will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

Sexual Assault with an Object:

- The use of an object or instrument to penetrate,
- however slightly,
- the genital or anal opening of the body of another person,
- forcibly, and/or
- against that person’s will (non-consensually), or
- not forcibly or against the person’s will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

Fondling:

- The touching of the private body parts of another person (buttocks, groin, breasts),
- for the purpose of sexual gratification,
- forcibly, and/or
- against that person’s will (non-consensually), or
- not forcibly or against the person’s will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

<sup>12</sup> This would include having another person touch you sexually, forcibly, or without their consent.

- with a person who is under the statutory age of consent in Texas, which is 17 years old, although if the victim was at least 14 years old, it is not statutory rape if the other party was not more than three years older.<sup>13</sup>

**4) Dating Violence, defined as:**

- a. violence,
- b. on the basis of sex,
- c. committed by a person,
- d. who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.<sup>16</sup>

The existence of such a relationship shall be determined based on the Complainant’s statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition—

- i. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
- ii. Dating violence does not include acts covered under the definition of domestic violence.

**5) Domestic Violence (“Family Violence” under Texas law)<sup>17</sup>, defined as:**

- a. violence,
- b. on the basis of sex,
- c. committed by a current or former spouse or intimate partner of the Complainant,
- d. by a person with whom the Complainant shares a child in common, or
- e. by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or
- f. by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Texas<sup>18</sup>, or
- g. by any other person against an adult or youth Complainant who is protected from that person’s acts under the domestic or family violence laws of the State of Texas.<sup>19</sup>

**6) Stalking<sup>20</sup> defined as:**

- a. engaging in a course of conduct,
- b. on the basis of sex,
- c. directed at a Complainant, that

<sup>13</sup> See Texas Penal Code, Sect. 21.011. It is not considered Statutory Rape in Texas if the minor is over 13 years of age and the Respondent was not more than three years older than the minor, not a registered sex offender, not a repeat offender, not prohibited from marrying or purporting to marry the minor, and not prohibited from living under the appearance of marriage with the minor.

<sup>16</sup> See Texas Family Code Title 4, Subtitle A, Chapter 71, Section 71.0021.

<sup>17</sup> To categorize an incident as Domestic Violence under this Policy, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

<sup>18</sup> See Texas Family Code Title 4, Subtitle A, Chapter 71, Section 71.004; Title 4, Subtitle E, Chapter 2, Section 2.401.

<sup>19</sup> Under Texas Family Code Sec. 71.003, Texas Government Code Sec. 573.022: Degrees of Relationship Sec. 573.023, and Sec. 573.024: Determination of Affinity.

<sup>20</sup> See Texas Penal Code, Section 42.072

- i. would cause a reasonable person to fear for the person's safety, or
- ii. the safety of others; or
- iii. suffer substantial emotional distress.

For the purposes of this definition—

- Course of conduct means two or more acts, including, but not limited to, acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
- Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

South Plains College reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or expulsion/termination, for any offense under this policy.

### **C. Force, Coercion, Consent, and Incapacitation<sup>21</sup>**

As used in the offenses above, the following definitions and understandings apply:

**Force:** Force is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g., "Have sex with me or I'll hit you," "Okay, don't hit me. I'll do what you want.").

Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

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<sup>21</sup> According to Sect. 1.07(11) of the Texas Penal Code, "consent" means assent in fact, whether express or apparent, which is applicable to criminal prosecutions for sex offenses in Texas. Section 22.011 of the Texas Penal Code states that sexual assault is without the consent of the other person if: (1) the actor compels the other person to submit or participate by the use of physical force, violence, or coercion; (2) the actor compels the other person to submit or participate by threatening to use force or violence against the other person or to cause harm to the other person, and the other person believes that the actor has the present ability to execute the threat; (3) the other person has not consented and the actor knows the other person is unconscious or physically unable to resist; (4) the actor knows that as a result of mental disease or defect the other person is at the time of the sexual assault incapable either of appraising the nature of the act or of resisting it; (5) the other person has not consented and the actor knows the other person is unaware that the sexual assault is occurring; (6) the actor has intentionally impaired the other person's power to appraise or control the other person's conduct by administering any substance without the other person's knowledge; (7) the actor compels the other person to submit or participate by threatening to use force or violence against any person, and the other person believes that the actor has the ability to execute the threat; (8) the actor is a public servant who coerces the other person to submit or participate; (9) the actor is a mental health services provider or a health care services provider who causes the other person, who is a patient or former patient of the actor, to submit or participate by exploiting the other person's emotional dependency on the actor; (10) the actor is a clergyman who causes the other person to submit or participate by exploiting the other person's emotional dependency on the clergyman's professional character as spiritual adviser; (11) the actor is an employee of a facility where the other person is a resident, unless the employee and resident are formally or informally married to each other under Chapter 2, Family Code; or (12) the actor is a health care services provider who, in the course of performing an assisted reproduction procedure on the other person, uses human reproductive material from a donor knowing that the other person has not expressly consented to the use of material from that donor. This definition is applicable to criminal prosecutions for sex offenses in Texas.

**Coercion:** Coercion is unreasonable pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. When someone makes clear that they do not want to engage in certain sexual activity, 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.

**Consent is:**

- knowing, and
- voluntary, and
- clear permission
- by word or action
- to engage in sexual activity.

Individuals may experience the same interaction in different ways. Therefore, it is the responsibility of each party to determine that the other has consented before engaging in the activity.

If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged.

For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Reasonable reciprocation can be implied consent. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain *their* consent to being kissed back.

Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, that sexual activity should cease within a reasonably immediate time.

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent. If an individual expresses conditions on their willingness to consent (e.g., use of a condom) or limitations on the scope of their consent, those conditions and limitations must be respected.

Proof of consent or non-consent is not a burden placed on either party involved in a complaint. Instead, the burden remains on South Plains College to determine whether its policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged misconduct occurred and any similar, previous patterns that may be evidenced.

Consent in relationships must also be considered in context. When parties consent to Bondage, discipline/dominance, submission/sadism, and masochism (BDSM) or other forms of kink, non-consent may be shown by the use of a safe word. Resistance, force, violence, or even saying “no” may be part of the kink and thus consensual, thus the College’s evaluation of communication in kink situations should be guided by reasonableness, rather than strict adherence to policy that assumes non-kink relationships as a default.

**Incapacitation:** A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious, for any reason, including due to alcohol or other drug

consumption. As stated above, a Respondent violates this Policy if they engage in sexual activity with someone who is incapable of giving consent.

It is a defense to a sexual assault policy violation that the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated. "Should have known" is an objective, reasonable person standard that assumes that a reasonable person is both sober and exercising sound judgment.

Incapacitation occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the "who, what, when, where, why, or how" of their sexual interaction).

Incapacitation is determined through consideration of all relevant indicators of an individual's state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.

This Policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating substances.

#### **D. Other Civil Rights Offenses**

In addition to the forms of sexual harassment described above, which are covered by Title IX, South Plains College additionally prohibits the following offenses as forms of discrimination that may be within or outside of Title IX when the act is based upon the Complainant's actual or perceived protected characteristic.

- 1) **Sexual Exploitation**, defined as:
  - a. taking non-consensual or abusive sexual advantage of another
  - b. for their own benefit or for the benefit of anyone other than the person being exploited, and
  - c. that conduct does not otherwise constitute Sexual Harassment under this Policy.

Examples of Sexual Exploitation include, but are not limited to:

- Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed)
- Invasion of sexual privacy (e.g., doxxing)
- Knowingly making an unwelcome disclosure of (or threatening disclosure) an individual's sexual orientation, gender identity, or gender expression
- Taking pictures, video, or audio recording of another in a sexual act, or in any other sexually related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity; or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity; or disseminating sexual pictures without the photographed person's consent), including the making or posting of non-consensual pornography
- Prostituting another person
- Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually transmitted disease (STD) or infection (STI), without informing the other person of the infection
- Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity

- Misappropriation of another person’s identity on apps, websites, or other venues designed for dating or sexual connections (e.g., spoofing)
  - Forcing a person to take an action against that person’s will by threatening to show, post, or share information, video, audio, or an image that depicts the person’s nudity or sexual activity
  - Knowingly soliciting a minor for sexual activity
  - Engaging in sex trafficking
  - Knowingly creating, possessing, or disseminating child pornography
- 2) **Harm/Endangerment**, defined as:
- a. threatening or causing physical harm;
  - b. extreme verbal, emotional, or psychological abuse; or
  - c. other conduct which threatens or endangers the health or safety of any person or damages their property
- 3) **Discrimination**, defined as:
- a. actions that deprive, limit, or deny
  - b. other members of the community
  - c. of educational or employment access, benefits, or opportunities
  - d. including disparate treatment;
- 4) **Intimidation**, defined as:
- a. implied threats or
  - b. acts that cause the Complainant reasonable fear of harm
- 5) **Hazing**, defined as
- a. Acts likely to cause physical or psychological harm or social ostracism
  - b. to any person within the South Plains College community,
  - c. when related to the admissions, initiation, pledging, joining, or any other group-affiliation activity (as described in the Student Guide under the Hazing Policy).

A Person commits a hazing offense if the person engages, solicits, encourages, directs, aids or attempts to aid another in hazing, or has first-hand knowledge of the planning or occurrence of specific hazing and fails to report that knowledge to the Dean of Students. An organization commits a hazing offense if the organization condones or encourages hazing, or if an officer, members, pledges, or alumni of the organization commits or assists in the commission of hazing.

- 6) **Bullying**, defined as:
- a) repeated and/or severe aggressive behavior
  - b) that is likely to intimidate or intentionally hurt, control, or, physically and/or mentally diminish the Complainant
  - c) that is not speech or conduct otherwise protected by the First Amendment.

Violation of any other SPC policies may constitute a Civil Rights Offense when a violation is motivated by actual or perceived protected characteristic(s), and the result is a discriminatory limitation or denial of employment or educational access, benefits, or opportunities.

Sanctions for the above-listed Civil Rights Offenses range from warning through expulsion/termination.

## 20. Retaliation

Protected activity under this Policy includes reporting alleged misconduct that may implicate this Policy, participating in the resolution process, supporting a Complainant or Respondent, assisting in providing information relevant to an investigation, and/or acting in good faith to oppose conduct that constitutes a violation of this Policy.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator (for Complaints involving students) or the Human Resources Director (for Complaints involving only employees) and will be promptly investigated. The College will take all appropriate and available steps to protect individuals who fear that they may be subjected to retaliation.

South Plains College and any member of SPC's community are prohibited from taking or attempting to take materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy and procedure.

Filing a complaint under Process B could be considered retaliatory if those allegations could be subject to Process A, when the Process B allegations are made for the purpose of interfering with or circumventing any right or privilege provided afforded within Process A that is not provided by Process B. Therefore, the College carefully vets all complaints to ensure this does not happen, and to assure that complaints are routed to the appropriate process.

The exercise of rights protected under the First Amendment does not constitute retaliation.

Pursuing a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this Policy and procedure does not constitute retaliation, provided that a determination regarding responsibility, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith.

## 21. Mandated Reporting

All SPC employees (faculty, staff, administrators) are expected to report actual or suspected discrimination or harassment to appropriate officials immediately, though there are some limited exceptions.

To make informed choices, it is important to be aware of confidentiality and mandatory reporting requirements when consulting South Plains College resources per [TEC 51.251 – 51.260](#). Within SPC, some resources may maintain confidentiality and are not required to report actual or suspected harassment, discrimination, or retaliation in a way that identifies all parties. They may offer options and resources without any obligation to inform an outside agency or campus official unless a Complainant has requested the information be shared.

If a Complainant expects formal action in response to their allegations, reporting to any Mandated Reporter can connect them with resources to report alleged crimes and/or policy violations, and these employees will immediately pass reports to the Title IX Coordinator (for Complaints involving students) or the Human Resources Director (for Complaints involving only employees) and/or police, if desired by the Complainant, who will act when an incident is reported to them.

The following sections describe the reporting options at South Plains College for a Complainant or third-party (including parents/guardians when appropriate):

## **A. Confidential Resources<sup>22</sup>**

Per [TEC 51.251-51.260](#), if a Complainant would like the details of an incident to be kept confidential, the Complainant may speak with:

- On-campus licensed professional counselors and staff<sup>23</sup>
- On-campus health service providers and staff
- On-campus Victim or Student Advocates
- Athletic trainers (if licensed and privileged under state statute, and/or working under the supervision of a licensed health professional)
- Community based (non-employees):
  - Licensed professional counselors and other medical providers
  - Local rape crisis counselors
  - Domestic violence resources
  - Local or state assistance agencies
  - Clergy/Chaplains
  - Attorneys

All the above-listed individuals will maintain confidentiality when acting under the scope of their licensure, professional ethics, and/or professional credentials, except in extreme cases of immediacy of threat or danger or abuse of a minor/elder/individual with a disability, or when required to disclose by law or court order.

Institutional counselors (for students) and the Employee Assistance Program (EAP for employees) are available to help free of charge and may be consulted on an emergency basis during normal business hours.

Employees who have confidentiality as described above and who receive reports within the scope of their confidential roles will timely submit anonymous statistical information for Clery Act purposes unless they believe it would be harmful to their client, patient, or parishioner.

## **B. Anonymous Notice to Mandated Reporters<sup>24,25</sup>**

Mandated reporters are not permitted to give anonymous notice (i.e., without identification of the Complainant) to the Title IX Coordinator (for Complaints involving students) or the Human Resources Director (for Complaints involving only employees) except for campus peace officers who receive information regarding an incident of the sexual harassment, sexual assault, dating violence, or stalking

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<sup>22</sup> TX Educ. Code Chapter 51, Subchapter E-2, Section 51.252 requires employees of postsecondary educational institutions designated by the institution as a person with whom students may speak confidentially concerning sexual harassment, sexual assault, dating violence, or stalking or who receives information regarding such an incident under circumstances that render the employee's communications confidential or privileged under other law shall, in making a report, state only the type of incident reported and not include any information that would violate a student's expectation of privacy. This subsection does not affect the employee's duty to report an incident under any other law.

<sup>23</sup> Texas Education Code Section 51.290 requires each postsecondary educational institution to designate one or more employees to act as responsible employees for purposes of Title IX and one or more employees as persons to whom students enrolled at the institution may speak confidentially concerning sexual harassment, sexual assault, dating violence, and stalking. Further, a postsecondary educational institution may designate one or more students enrolled at the institution as student advocates to whom other students enrolled at the institution may speak confidentially concerning sexual harassment, sexual assault, dating violence, and stalking.

<sup>24</sup> See TX Educ. Code Chapter 51, Subchapter E-2, Sect. 51.250.

<sup>25</sup> Texas Penal Code Sect. 32.53 requires any person who believes that a child, a person 65 years or older, or an adult with disabilities is being abused, neglected, or exploited to report the circumstances to appropriate authorities.

from a Complainant who wishes to complete a pseudonym form. In such an instance, the peace officer will only report the type of incident and may not include the Complainant's name, phone number, address, or other information that may directly or indirectly reveal the Complainant's identity.

Mandated reporters cannot remain anonymous themselves.

Anonymous notice will be investigated by South Plains College to the extent possible, both to assess the underlying allegation(s) and to determine if supportive measures or remedies can be provided.

However, anonymous notice typically limits South Plains College's ability to investigate, respond, and provide remedies, depending on what information is shared.

### **C. Mandated Reporters and Formal Notice/Complaints**

All employees of South Plains College, including student employees, with the exception of those who are designated as Confidential Resources, are Mandated Reporters and must promptly share with the Title IX Coordinator (for Complaints involving students) or the Human Resources Director (for Complaints involving only employees) all known details of a report made to them in the course of their employment.<sup>27</sup> Employees must also promptly share all details of behaviors under this policy that they observe or have knowledge of, even if not reported to them by a Complainant or third-party.

Employees must also promptly share all details of behaviors under this Policy that they observe or have knowledge of, even if not reported to them by a Complainant or third party.

Complainants may want to carefully consider whether they share personally identifiable details with non-confidential Mandated Reporters, as those details must be shared with the Title IX Coordinator and/or Human Resources Director.

Generally, disclosures in climate surveys, classroom writing assignments or discussions, human subjects research, or at events such as "Take Back the Night" marches or speak-outs do not provide notice that must be reported to the Title IX Coordinator by employees, unless the Complainant clearly indicates that they desire a report to be made or a seek a specific response from South Plains College.

Supportive measures may be offered as the result of such disclosures without formal College action.

Failure of a Mandated Reporter, as described above in this section, to report an incident of harassment or discrimination of which they become aware is a violation of SPC policy and Texas law and can be subject to disciplinary action, as well as criminal and civil penalties, for failure to comply.<sup>28</sup> This policy provision also applies when a Mandated Reporter, as described above in this section, makes a knowingly false report with the intent to harm or deceive.

Though this may seem obvious, when a Mandated Reporter is engaged in harassment or other violations of this Policy, they still have a duty to report their own misconduct, though South Plains College is

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<sup>27</sup> Texas Education Code Chapter 51, Subchapter E-2, Section 51.252,

<sup>28</sup> Texas Educ. Code Chapter 51, Subchapter E-2, Sec. 51.255 states that a person commits an offense if the person:

(1) is required to make a report under Section 51.252 and knowingly fails to make the report; or  
(2) with the intent to harm or deceive, knowingly makes a report under Section 51.252 that is false. (b) An offense under Subsection (a) is a Class B misdemeanor, except that the offense is a Class A misdemeanor if it is shown on the trial of the offense that the actor intended to conceal the incident that the actor was required to report under Section 51.252. (c) A postsecondary educational institution shall terminate the employment of an employee whom the institution determines in accordance with the institution's disciplinary procedure to have committed an offense under Subsection (a).

technically not on notice simply because a harasser is also a Mandated Reporter unless the harasser does in fact report themselves.

Finally, it is important to clarify that a Mandated Reporter who is themselves a target of harassment or other misconduct under this Policy is not required to report their own experience, though they are, of course, encouraged to do so.

## **22. When a Complainant Does Not Wish to Proceed**

If a Complainant does not wish for their name to be shared, does not wish for an investigation to take place, and/or does not want a Formal Complaint to be pursued, they may make such a request to the Title IX Coordinator (for Complaints involving students) or the Human Resources Director (for Complaints involving only employees), who will evaluate that request in light of the duty to ensure the safety of the campus and to comply with state or federal law.

The Title IX Coordinator or Human Resources Director has ultimate discretion over whether South Plains College proceeds when the Complainant does not wish to do so, and the Title IX Coordinator or Human Resources Director may sign a Formal Complaint to initiate a grievance process, weighing the following factors:

- 1) The seriousness of the alleged incident;
- 2) whether the institution has received other reports of sexual harassment, sexual assault, dating violence, or stalking committed by the alleged Respondent(s);
- 3) whether the alleged incident poses a risk of harm to others; and
- 4) any other factors the institution determines relevant.<sup>29</sup>

A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence. The College may be compelled to act on alleged employee misconduct irrespective of a Complainant's wishes.

The Title IX Coordinator or Human Resources Director must also consider the effect that non-participation by the Complainant may have on the availability of evidence and the College's ability to pursue a Formal Grievance Process fairly and effectively.

When the Title IX Coordinator or Human Resources Director executes the written complaint, they do not become the Complainant. The Complainant is the individual who is alleged to be the victim of conduct that could constitute a violation of this Policy.

When South Plains College proceeds, the Complainant (or their Case Advisor) will be informed of this determination and may have as much or as little involvement in the process as they wish. The Complainant retains all rights of a Complainant under this Policy irrespective of their level of participation. Typically, when the Complainant chooses not to participate, the Case Advisor may be appointed as proxy for the Complainant throughout the process, acting to ensure and protect the rights of the Complainant, though this does not extend to the provision of evidence or testimony.

Note that South Plains College's ability to remedy and respond to notice may be limited if the Complainant does not want South Plains College to proceed with an investigation and/or grievance process. The goal is to

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<sup>29</sup> See TX Educ. Code, Chapter 51, Subchapter E-3, Sec. 51.285.

provide the Complainant with as much control over the process as possible, while balancing the College's obligation to protect its community.

In Complaints in which the Complainant requests confidentiality/no formal action and the circumstances allow South Plains College to honor that request, the College may offer Informal Resolution options, supportive measures, and remedies to the Complainant and the community, but will not otherwise pursue formal action. The College will take any steps it determines necessary to protect the health and safety of the institution's community in relation to the alleged misconduct.

If the Complainant elects to take no action, they can change that decision if they decide to pursue a Formal Complaint at a later date. Upon making a Formal Complaint, a Complainant has the right, and can expect, to have allegations taken seriously by SPC, and to have the incidents investigated and properly resolved through these procedures. Please consider that delays may cause limitations on access to evidence, or present issues with respect to the status of the parties.

### **23. Federal Timely Warning Obligations**

South Plains College must issue timely warnings for incidents reported to them that pose a serious or continuing threat of bodily harm or danger to members of the campus community.

The College will ensure that a Complainant'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 potential danger.

### **24. False Allegations and Evidence**

Deliberately false and/or malicious accusations under this Policy are a serious offense and will be subject to appropriate disciplinary action.<sup>30</sup> This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a policy violation determination.

Additionally, witnesses and parties knowingly providing false evidence, tampering with or destroying evidence, or deliberately misleading an official conducting an investigation, hearing, or informal resolution can be subject to discipline under the appropriate South Plains College policies.

### **25. Amnesty<sup>31</sup>**

South Plains College community encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to report to College officials or participate in resolution processes because they fear that they themselves may be in violation of certain policies, such as

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<sup>30</sup> Texas Educ. Code Chapter 51, Subchapter E-2, Sec. 51.255 states that a person commits an offense if the person, with the intent to harm or deceive, knowingly makes a report under Section 51.252 that is false.

<sup>31</sup> TX Educ. Code Chapter 51, Subchapter E-3, Section, 51.284 establishes that an institution may not take any disciplinary action against a student enrolled at the institution who in good faith reports to the institution being the victim of, or a witness to, an incident of sexual harassment, sexual assault, dating violence, or stalking for a violation by the student of the institution's code of conduct occurring at or near the time of the incident, regardless of the location at which the incident occurred or the outcome of the institution's disciplinary process regarding the incident, if any.

underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons.

It is in the best interests of South Plains College community that Complainants choose to report misconduct to College officials, that witnesses come forward to share what they know, and that all parties be forthcoming during the process.

To encourage reporting and participation in the process, SPC maintains a policy of offering parties and witnesses amnesty from minor policy violations – such as underage consumption of alcohol or the use of illicit drugs – related to the incident.<sup>32</sup>

Amnesty does not apply to more serious allegations such as physical abuse of another or illicit drug distribution. The decision not to offer amnesty to a Respondent is based on neither sex nor gender, but on the fact that collateral misconduct is typically addressed for all students within a progressive discipline system, and the rationale for amnesty – the incentive to report serious misconduct – is rarely applicable to Respondent with respect to a Complainant.

#### **A. Students**

Sometimes, students are hesitant to assist others for fear that they may get in trouble themselves (for example, an underage student who has been drinking or using marijuana might hesitate to help take an individual who has experienced sexual assault to the Campus Police).

South Plains College maintains a policy of amnesty for students who offer help to others in need. Although policy violations cannot be overlooked, South Plains College may provide purely educational options with no official disciplinary finding, rather than punitive sanctions, to those who offer their assistance to others in need.

#### **B. Employees**

Sometimes, employees are hesitant to report harassment or discrimination they have experienced for fear that they may get in trouble themselves. For example, an employee who has violated the consensual relationship policy and is then assaulted in the course of that relationship might hesitate to report the incident to College officials.

South Plains College may, at its discretion, offer employee Complainants amnesty from such policy violations (typically more minor policy violations) related to the incident. Amnesty may also be granted to Respondents and witnesses on a case-by-case basis.

### **26. Parental Notification (allegations involving students)**

The College reserves the right to notify parents/guardians of dependent students regarding any health or safety risk, change in student status or student conduct situation, particularly alcohol and other drug

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<sup>32</sup> TX Educ. Code Chapter 51, Subchapter E-2, Sect. 51.254, states that a person acting in good faith who reports or assists in the investigation of a report of an incident of sexual harassment, sexual assault, dating violence, or stalking is immune from civil liability, and criminal liability for offenses punishable by fine only, that might otherwise be incurred or imposed as a result of those actions; and may not be subjected to any disciplinary action by the postsecondary educational institution at which the person is enrolled or employed for any violation by the person of the institution's code of conduct reasonably related to the incident for which suspension or expulsion from the institution is not a possible punishment. However, this does not apply to a person who perpetrates or assists in the perpetration of the incident.

violations. The College may also notify parents/guardians of non-dependent students who are under age 21 of alcohol and/or drug policy violations.

When a student is non-dependent, the College may contact parents/guardians to inform them of situations in which there is a significant and articulable health and/or safety risk. The College also reserves the right to designate which College officials have a need to know about incidents that fall within this policy, pursuant to the Family Educational Rights and Privacy Act (FERPA).

## **27. Training Obligations**

### **A. Student Training (TEC 51.282)**

Freshmen or undergraduate transfer students are required to attend an orientation on the content of this SPC policy. The training must occur during the first term of enrollment at SPC either online or in person.

SPC will develop and implement a comprehensive prevention and outreach program on sexual harassment, sexual assault, dating violence, and stalking. The program must address a range of strategies to prevent sexual harassment, sexual assault, dating violence, and stalking, including a victim empowerment program, a public awareness campaign, primary prevention, bystander intervention, and risk reduction. Also, the program will include providing to students information regarding the protocol for reporting incidents of sexual harassment, sexual assault, dating violence, and stalking adopted under this policy.

Student training must will include:

- Explanation of the policy and protocol for reporting
- Programming including victim empowerment, public awareness, bystander intervention, and risk reduction
- Address the importance of prompt medical attention (including for forensic purposes) and the availability of law enforcement resources
- Provide name, office location, and contact information for the Title IX Coordinator
- Provide name(s), office location, and contact information for confidential and key departments/employees

### **B. Law Enforcement Training (TEC51.288)**

All officers employed by the SPC Campus Police Department must complete training on trauma-informed investigation into allegations encompassed within this policy.

### **C. Mandatory Reporter Training**

Mandatory reporters must be trained to understand the scope of their reporting duty:

- When they witness or receive information.
- In the “course and scope” of their employment.
- The obligation to report situations or incidents that employees reasonably believe would constitute a violation of the policy (victim can be either a student or employee).
- Reports communicated must include all known relevant information about the incident, any redress so far, and whether the reporting party has expressed a desire for confidentiality,
- The reporting duty does not apply:
  - o To an incident in which the mandatory reporter was a victim themselves, and/or
  - o When the disclosure was made at a public awareness event.
- Criminal liability exists for knowingly failing to make a required report. Intent to harm or deceive is an additional aggravating actor in any criminal prosecution.
- The institution will terminate any employee who the institution determines has knowingly failed to comply with the reporting requirements.

## D. Confidential Reporters

All confidential reporters must receive training on their duties.

## 28. Memoranda of Understanding

In accordance with [TEC 51.289](#), SPC will facilitate effective communication and coordination regarding allegations outlined in this policy and enter into memorandum of understanding with the following: local law enforcement agencies other than SPC Campus Police; sexual harassment, sexual assault, dating violence, or stalking advocacy groups; and hospitals or other medical resource providers.

## 29. Federal Statistical Reporting Obligations

Certain campus officials – those deemed Campus Security Authorities per policies [HHB](#) and [HHE](#) – have a duty to report the following for federal statistical reporting purposes (Clery Act) and [TEC 51.252](#):

- 1) All “primary crimes,” which include all criminal homicide, sexual assault, robbery, aggravated assault, burglary, motor vehicle theft, and arson;
- 2) Hate crimes, which include any bias motivated primary crime as well as any bias motivated larceny or theft, simple assault, intimidation, or destruction/damage/vandalism of property;
- 3) VAWA<sup>33</sup>-based crimes, which include sexual assault, domestic violence, dating violence, and stalking; and
- 4) Arrests and referrals for disciplinary action for weapons-related law violations, liquor related law violations, and drug law violations.

All personally identifiable information is kept private, but statistical information must be passed along to campus law enforcement regarding the type of incident and its general location (on or off-campus or in the surrounding area, but no addresses are given) for publication in the Annual Security Report and daily campus crime log. This reporting helps to provide the community with a clear picture of the extent and nature of campus crime to ensure greater community safety.

Per College policy [HHE](#), Campus Security Authorities include:

Athletic Department – including all coaching staff:

- Director of Athletics
- Basketball
- Rodeo
- Track & Field
- Cross Country
- Trainers
- Cheerleading & Mascot
- Team Managers
- Dean of Students Office
- Dean of Students
- Associate Dean of Students

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<sup>33</sup> VAWA is the Violence Against Women Act, enacted in 1994 codified in part at 42 U.S.C. sections 13701 through 14040.

Student Life Director  
 STAR Center Director  
 STAR Center Advisors  
 Upward Bound Director  
 Upward Bound Advisors  
 Campus Police, Security, and Building Monitors  
     Levelland  
     Plainview  
     Reese  
     Lubbock  
 Housing  
     Resident Hall Directors  
     Resident Hall Advisors  
 Director of Health & Wellness, when not in counseling session  
 Associate Director of Student Health - School Nurse  
 Dean of Reese Center  
 Director of the Plainview Center  
 Executive Director of the Lubbock Center  
 Vice President of Student Affairs  
 Student Club/Organization Advisors (faculty or staff member)  
 Faculty or Staff Member responsible for sponsoring or chaperoning student trips (academic or student activities)

The information to be shared includes the date, the general location of the incident (using Clery location categories) and the Clery crime category. This reporting protects the identity of the reporting party and may be done anonymously by using the form at <http://www.southplainscollege.edu/referral/>.

### 30. State of Texas Reporting Obligations

#### A. Title IX Coordinator Report to the President

In accordance with [TEC 51.253](#) Administrative Reporting Requirements, the Title IX Coordinator will report on a quarterly basis (see Table 28.1) a written report on the reports received under [TEC 51.252](#) including the following information excluding personally identifiable information when possible:

- Case number from Maxient
- Incident reported date
- Incident date
- Resolution date
- Summary of incident
- Services/Intermediate remedies
- Disposition, if any, of any disciplinary process arising from the report
- Disciplinary actions taken, if none then reasoning why

**Table 28.1 – Quarterly Notification of TEC Section 51.252 Reporting**

<u>Quarter</u>	<u>President Report</u>	<u>Board of Regents Report</u>
1 (September – November)	mid-December	January meeting
2 (December – February)	mid-March	April meeting
3 (March – May)	mid-June	August meeting
4 (June – August)	mid-September	October meeting

## **B. President Report to the South Plains College Board of Regents**

In accordance with [Texas Education Code 51.253](#) Administrative Reporting Requirements, the President will report at least once per fall and spring term to the Board of Regents (see Table 13.1) and post on the College's website information concerning the reports received under [TEC 51.252](#). The report will include the following information without identification of person(s) involved:

- Number of reports received under [TEC 51.252](#);
- Number of investigations conducted as a result of the reports;
- Disposition, if any, of any disciplinary processes arising from those reports;
- Number of those reports for which the College determined not to initiate a disciplinary process, if any; and
- Disciplinary actions taken under [TEC 51.255](#).

## **C. Policy Compliance Statement to the Texas Higher Education Coordinating Board (THECB)**

In accordance with [TEC Subchapter E-2, Section 51.258](#), the President of South Plains College will annually certify in writing to the THECB that the College is in substantial compliance with [TEC Subchapter E-2](#).

## **31. Preservation of Evidence**

The preservation of evidence in incidents of sexual assault and stalking is critical to potential criminal prosecution and to obtaining restraining/protective orders and particularly time sensitive. South Plains College will inform the Complainant of the importance of preserving evidence by taking actions such as the following:

### **Sexual Assault**

- Seek forensic medical assistance at the at the University Medical Center in Lubbock, Texas, ideally within 120 hours of the incident (sooner is better).
- Avoid urinating, showering, bathing, washing hands or face, or douching, if possible, but evidence may still be collected even if you do.
- If oral sexual contact took place, refrain from smoking, eating, drinking, or brushing teeth.
- If clothes are changed, place soiled clothes in a paper bag (plastic destroys evidence).
- Seeking medical treatment can be essential even if it is not for the purposes of collecting forensic evidence.

### **Stalking**

- Evidence in the form of text and voice messages will be lost in most cases if the Complainant changes their phone number.
  - Make a secondary recording of any voice messages and/or save the audio files to a cloud server.
  - Take screenshots and/or a video recording of any text messages or other electronic messages (e.g., Instagram, Snapchat, Facebook).
- Save copies of e-mail and social media correspondence, including notifications related to account access alerts.
- Take timestamped photographs of any physical evidence including notes, gifts, etc. in place when possible.
- Save copies of any messages, to include those showing any request for no further contact.
- Obtain copies of call logs showing the specific phone number being used rather than a saved contact name if possible.

During the initial meeting between the Complainant and the Title IX Coordinator (for Complaints involving students) or the Human Resources Director (for Complaints involving only employees), the importance of taking these actions will be discussed, if timely.

### **32. Revision of this Policy and Procedures**

This Policy and procedures supersede any previous policies addressing harassment, sexual misconduct, discrimination, and/or retaliation for incidents occurring on or after August 14, 2020, under Title IX and will be reviewed and updated annually by the Title IX Coordinator. Substantial revisions are noted in [Appendix F: Revisions](#).

In compliance with the State of Texas Education Code Section 1, Section 51.9363, this policy is required to be reviewed by South Plains College each biennium, and with approval of the Board of Regents, revise the policy as necessary. South Plains College reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

During the Resolution Process, the Title IX Coordinator (for Complaints involving students) or Human Resources Director (for Complaints involving only employees) may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules. The Title IX Coordinator may also vary procedures materially with notice (on the institutional website, with the appropriate effective date identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this Policy and procedures.

If government laws or regulations change – or court decisions alter – the requirements in a way that impacts this document, this document will be construed to comply with the most recent government regulations or holdings.

This document does not create legally enforceable protections beyond the protections of the background state and federal laws which frame such policies and codes, generally.

## APPENDIX A: Resolution Process A

### RESOLUTION PROCESS FOR ALLEGED VIOLATIONS OF THE EQUAL OPPORTUNITY, HARASSMENT, AND NONDISCRIMINATION POLICY (KNOWN AS PROCESS “A”)

#### 1. Overview

South Plains College will act on any formal notice/complaint of violation of the Equal Opportunity, Harassment, and Nondiscrimination Policy (“the Policy”) that is received by the Title IX Coordinator or any other Official with Authority by applying these procedures, known as “Process A.”

The procedures below apply only to qualifying allegations of Title IX Sexual Harassment (including sexual assault, dating violence, domestic violence, and stalking, as defined in the Policy) involving students, staff, administrators, or faculty members.

If other Policy definitions are invoked, such as protected characteristic harassment or discrimination as defined above, please see [Appendix F](#) for a description of the procedures applicable to the resolution of such offenses, known as “Process B.”

Process B can also apply to sexual harassment (including sexual assault, dating violence, domestic violence, and stalking, as defined above) when jurisdiction does not fall within Process A, as determined by the Title IX Coordinator.

The procedures below may be used to address alleged collateral misconduct by the Respondent arising from the investigation of or occurring in conjunction with reported misconduct (e.g., vandalism, physical abuse of another), when alleged violations of the Policy are being addressed at the same time. In such cases, the Title IX Coordinator may consult with the institution officials who typically oversee such conduct (e.g., human resources, student conduct, academic affairs) to provide input as needed. All other allegations of misconduct unrelated to incidents covered by the Policy will be addressed through procedures described in the student, faculty, and staff handbooks.

#### 2. Notice/Complaint

Upon receipt of a Formal Complaint or notice of an alleged Policy violation to the Title IX Coordinator (for Complaints involving students) or the Human Resources Director (for Complaints involving only employees), the Title IX Coordinator or Human Resources Director initiates a prompt initial assessment to determine the next steps South Plains College needs to take. The Title IX Coordinator will contact the Complainant to offer supportive measures, if not previously offered, and determine whether the Complainant wishes to file a Formal Complaint.

The Title IX Coordinator or Human Resources Director will initiate at least one of three responses:

- 1) Offering supportive measures because the Complainant does not want to file a Formal Complaint; and/or
- 2) An Informal Resolution (upon submission of a Formal Complaint);
- 3) A Formal Grievance Process including an investigation and a hearing (upon submission of a Formal Complaint).

South Plains College uses the Formal Grievance Process as described below to determine whether the Policy has been violated. If so, the College will promptly implement effective remedies designed to ensure that it is not deliberately indifferent to harassment or discrimination, their potential recurrence, and/or their effects.

### 3. Initial Assessment

Following receipt of notice or a Formal Complaint of an alleged violation of this Policy, the Title IX Coordinator (for Complaints involving students) or the Human Resources Director (for Complaints involving only employees)<sup>34</sup> engages in an initial assessment, typically within one (1) to five (5) business days. The steps in an initial assessment can include:

- The Title IX Coordinator or Human Resources Director seeks to determine if the person impacted wishes to make a Formal Complaint, and will assist them to do so, if desired.
  - If they do not wish to do so, the Title IX Coordinator or Human Resources Director determines whether to initiate a complaint because a violence risk assessment indicates a compelling threat to health and/or safety.
- If a Formal Complaint is received, the Title IX Coordinator or Human Resources Director assesses its sufficiency and works with the Complainant to make sure it is correctly completed.
- The Title IX Coordinator or Human Resources Director reaches out to the Complainant to offer supportive measures.
- The Title IX Coordinator or Human Resources Director works with the Complainant to ensure they are aware of the right to have a Case Advisor.
- The Title IX Coordinator or Human Resources Director works with the Complainant to determine whether the Complainant prefers a supportive and remedial response, an Informal Resolution option, or a formal investigation and grievance process.
  - If a supportive and remedial response is preferred, the Title IX Coordinator or Human Resources Director works with the Complainant to identify their needs, determine appropriate supports, and implements accordingly. No Formal Grievance Process is initiated, though the Complainant can elect to initiate one later, if desired.
  - If an Informal Resolution option is preferred, the Title IX Coordinator or Human Resources Director assesses whether the complaint is suitable for Informal Resolution<sup>35</sup>, which informal mechanism may serve the situation best or is available and may seek to determine if the Respondent is also willing to engage in Informal Resolution.
  - If a Formal Grievance Process is preferred by the Complainant, the Title IX Coordinator or Human Resources Director determines if the alleged misconduct falls within the scope of Title IX regulations in effect at the time the alleged misconduct occurred:
    - If it does, the Title IX Coordinator or Human Resources Director will initiate the formal investigation and grievance process, directing the investigation to address based on the nature of the complaint:
      - an incident, and/or
      - a pattern of alleged misconduct, and/or
      - a culture/climate issue, based on the nature of the complaint.
    - If alleged misconduct does not fall within the scope of the Title IX regulations, the Title IX Coordinator or Human Resources Director determines that the regulations do not apply

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<sup>34</sup> If circumstances require, the President or Title IX Coordinator will designate another person to oversee the process below should an allegation be made about the Coordinator, or the Coordinator be otherwise unavailable, unable to fulfill their duties, or have a conflict of interest.

<sup>35</sup> Per the 2020 Title IX regulations, the College is prohibited from Informal Resolution of a complaint by a student against an employee.

(and will “dismiss” that aspect of the complaint, if any), assesses which policies may apply and refers the matter for resolution under Process B. Please note that dismissing a complaint under the 2020 Title IX is solely a procedural requirement under Title IX and does not limit South Plains College’s authority to address a complaint with an appropriate process and remedies.

### **A. Violence Risk Assessment**

In some Complaints, the Title IX Coordinator or Human Resources Director may determine that a Violence Risk Assessment (VRA) should be conducted by the CARE Team as part of the initial assessment. A VRA can aid in ten critical and/or required determinations, including:

- 1) Emergency removal of a Respondent on the basis of immediate threat to physical health/safety;
- 2) Whether the Title IX Coordinator or Human Resources Director should pursue/sign a Formal Complaint absent a willing/able Complainant;
- 3) Whether to put the investigation on the footing of incident and/or pattern and/or climate;
- 4) To help identify potential predatory conduct;
- 5) To help assess/identify grooming behaviors;
- 6) Whether it is reasonable to try to resolve a complaint through Informal Resolution, and what modality may be most successful;
- 7) Whether to permit a voluntary withdrawal by the Respondent;
- 8) Whether to impose transcript notation or communicate with a transfer SPC about a Respondent;
- 9) Assessment of appropriate sanctions/remedies (to be applied post-hearing); and/or
- 10) Whether a Clery Act Timely Warning/Trespass order/Persona-non-grata is needed.

Threat assessment is the process of evaluating the actionability of violence by an individual against another person or group following the issuance of a direct or conditional threat. A VRA is a broader term used to assess any potential violence or danger, regardless of the presence of a vague, conditional, or direct threat.

VRAs require specific training and are typically conducted by psychologists, clinical counselors, social workers, case managers, law enforcement officers, student conduct officers, or other CARE team members. A VRA authorized by the Title IX Coordinator or Human Resources Director should occur in collaboration with the CARE team. When a VRA is required by the Title IX Coordinator or Human Resources Director, a Respondent refusing to cooperate may result in a charge of failure to comply within the appropriate student or employee conduct process.

A VRA is not an evaluation for an involuntary behavioral health hospitalization, nor is it a psychological or mental health assessment. A VRA assesses the risk of actionable violence, often with a focus on targeted/predatory escalations, and is supported by research from the fields of law enforcement, criminology, human resources, and psychology.

More about South Plains College’s process for VRA can be found below in [Appendix D](#).

### **B. Dismissal (Mandatory and Discretionary)<sup>36</sup>**

South Plains College must dismiss a Formal Complaint or any allegations therein if, at any time during the investigation or hearing, it is determined that:

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<sup>36</sup> These dismissal requirements are mandated by the 2020 Title IX Regulations, 34 CFR §106.45.

- 1) The conduct alleged in the Formal Complaint would not constitute Title IX Sexual Harassment as defined above, even if proved; and/or
- 2) The conduct did not occur in an educational program or activity controlled by South Plains College (including buildings or property controlled by recognized student organizations), and/or South Plains College does not have control of the Respondent;
- 3) The conduct did not occur against a person in the United States;
- 4) At the time of filing a Formal Complaint, a Complainant is not participating in or attempting to participate in the education program or activity of South Plains College, and based on the available information, the Title IX Coordinator or Human Resources Director has determined that they do not need to sign a Formal Complaint on behalf of the College<sup>37</sup>.

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

- 1) A Complainant notifies the Title IX Coordinator or Human Resources Director in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein;
- 2) The Respondent is no longer enrolled in or employed by South Plains College;
- 3) Specific circumstances prevent South Plains College from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

A Complainant who decides to withdraw a complaint may later request to reinstate it or refile it.

Upon any dismissal, South Plains College will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties.

This dismissal decision is appealable by any party under the procedures for appeal below. The decision not to dismiss is also appealable by any party claiming that a dismissal is required or appropriate.

#### **4. Counterclaims**

South Plains College is obligated to ensure that the grievance process is not abused for retaliatory purposes, thus counterclaims made with retaliatory intent will not be permitted. South Plains College permits the filing of counterclaims but uses an initial assessment, described above, to assess whether the allegations in the counterclaim are made in good faith. Counterclaims by a Respondent may be made in good faith, but are, on occasion, made for purposes of retaliation, instead. Counterclaims made with retaliatory intent will not be permitted.

Counterclaims determined to have been reported in good faith will be processed using the Resolution Process below. Investigation of such claims may take place after resolution of the underlying initial Complaint, in which case a delay may occur.

Counterclaims may also be resolved through the same investigation as the underlying complaint, at the discretion of the Title IX Coordinator (for Complaints involving students) or Human Resources Director (for

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<sup>37</sup> Such a Complainant is still entitled to supportive measures, but the formal grievance process is not applicable unless the Title IX Coordinator signs the complaint in the event the Complainant cannot/will not do so.

Complaints involving only employees). When counterclaims are not made in good faith, they will be considered retaliatory and may constitute a violation of this policy.

## **5. Right to a Case Advisor**

The parties may each have a Case Advisor of their choice present with them for all meetings, interviews, and hearings within the Resolution Process, if they so choose. The parties may select whoever they wish to serve as their Case Advisor as long as the Case Advisor is eligible and available.<sup>38</sup>

Choosing a Case Advisor who is also a witness in the process creates potential for bias and conflict of interest. A party who chooses a Case Advisor who is also a witness can anticipate that issues of potential bias will be explored by the hearing Decision-maker(s).

### **A. Who Can Serve as a Case Advisor**

The Case Advisor may be a friend, mentor, family member, attorney, or any other individual a party chooses to advise, support, and/or consult with them throughout the Resolution Process. The parties may choose Case Advisors from inside or outside of South Plains College community.

The Title IX Coordinator or Human Resources Director will also offer to assign a trained Case Advisor for any party if the party so chooses. If the parties choose a Case Advisor from the pool available from the College, the Case Advisor will be trained by SPC and be familiar with the College's Resolution Process.

If the parties choose a Case Advisor from outside the pool of those identified by South Plains College, the Case Advisor may not have been trained by the College and may not be familiar with SPC policies and procedures.

Parties also have the right to choose not to have a Case Advisor in the initial stages of the resolution process, prior to a hearing.

### **B. Case Advisor's Role in Meetings and Interviews**

The parties may be accompanied by their Case Advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. Case Advisors should help the parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith.

South Plains College cannot guarantee equal Advisory rights, meaning that if one party selects a Case Advisor who is an attorney, but the other party does not or cannot afford an attorney, South Plains College is not obligated to provide an attorney.

### **C. Case Advisors in Hearings/SPC-Appointed Case Advisor**

Under U.S. Department of Education Title IX regulations, a form of indirect questioning is required during the hearing but must be conducted by the parties' Case Advisors. The parties are not permitted to directly question each other or any witnesses. If a party does not have a Case Advisor for a hearing, South Plains College will appoint a trained Case Advisor for the limited purpose of conducting any questioning of the other party and witnesses.

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<sup>38</sup> "Available" means the party cannot insist on a Case Advisor who simply doesn't have inclination, time, or availability. Also, the Case Advisor cannot have institutionally conflicting roles, such as being a Title IX administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions.

#### **D. Pre-Interview Meetings**

Case Advisors may request to meet with the administrative officials conducting interviews/meetings in advance of these interviews or meetings. This pre-meeting allows Case Advisors to clarify and understand their role and SPC's policies and procedures.

#### **E. Case Advisor Violations of SPC Policy**

All Case Advisors are subject to the same South Plains College policies and procedures, whether they are attorneys or not, and whether they are selected by a party or assigned by the College. Case Advisors are expected to advise their advisees without disrupting proceedings. Case Advisors should not address SPC officials or Investigators in a meeting or interview unless invited to (e.g., asking procedural questions). The Case Advisor may not make a presentation or represent their advisee during any meeting or proceeding and may not speak on behalf of the advisee to the Investigator(s) or other Decision-maker(s) except during a hearing proceeding, during questioning.

The parties are expected to ask and respond to questions on their own behalf throughout the investigation phase of the Resolution Process. Although the Case Advisor generally may not speak on behalf of their advisee, the Case Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any Resolution Process meeting or interview. For longer or more involved discussions, the parties and their Case Advisors should ask for breaks to allow for private consultation.

Any Case Advisor who oversteps their role as defined by this Policy, or who refuses to comply with South Plains College's established rule of decorum for the hearing, will be warned. If the Case Advisor continues to disrupt or otherwise fails to respect the limits of the Case Advisor role, the meeting may be ended, or other appropriate measures implemented, including the College requiring the party to use a different Case Advisor or providing a different SPC-appointed Case Advisor. Subsequently, the Title IX Coordinator or Human Resources Director will determine how to address the Case Advisor's non-compliance and future role.

#### **F. Sharing Information with the Case Advisor**

South Plains College expects that the parties may wish to have the College share documentation and evidence related to the allegations with their Case Advisors. The College also provides a consent form (FERPA consent to release to third parties) that authorizes the College to share such information directly with their Case Advisor. The parties must either complete and submit this form to the Title IX Coordinator or Human Resources Director or provide similar documentation demonstrating consent to a release of information to the Case Advisor before SPC is able to share records with a Case Advisor.

If a party requests that all communication be made through their attorney or Case Advisor, South Plains College will comply with that request at the discretion of the Title IX Coordinator or Human Resource Director.

#### **G. Privacy of Records Shared with a Case Advisor**

Case Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by SPC. The College may seek to restrict the role of any Case Advisor who does not respect the sensitive nature of the process or who fails to abide by South Plains College's privacy expectations.

#### **H. Expectations of a Case Advisor**

South Plains College generally expects a Case Advisor to adjust their schedule to allow them to attend SPC meetings/interviews/hearings when planned, but SPC may change scheduled

meetings/interviews/hearings to accommodate a Case Advisor's inability to attend, if doing so does not cause an unreasonable delay.

South Plains College may also make reasonable provisions to allow a Case Advisor who cannot attend in person to attend a meeting/interview/hearing by telephone, video conferencing, or other similar technologies as may be convenient and available.

### **I. Expectations of the Parties with Respect to Case Advisors**

A party may elect to change Case Advisors during the process and is not obligated to use the same Case Advisor throughout. The parties are expected to inform the Investigator(s) of the identity of their Case Advisor at least two (2) business days before the date of their first meeting with Investigators (or as soon as possible if a more expeditious meeting is necessary or desired).

The parties are expected to provide timely notice to the Title IX Coordinator or Human Resources Director if they change Case Advisors at any time. It is assumed that if a party changes Case Advisors, consent to share information with the previous Case Advisor is terminated, and a release for the new Case Advisor must be secured. Parties are expected to inform the Title IX Coordinator or Human Resources Director of the identity of their hearing Case Advisor at least two (2) business days before the hearing.

### **J. Assistance in Securing a Case Advisor**

South Plains College maintains a listing of local attorneys who may offer discounted or pro bono services. The list is available from the Department of Health and Wellness. The list of attorneys and the following links are provided for informational purposes and do not constitute South Plains College's endorsement of any of the external individuals/organizations listed.

For representation, Respondents may wish to contact organizations such as:

- Families Advocating for Campus Equality (FACE) (<http://www.facecampusequality.org>)
- Stop Abusive and Violent Environments (SAVE) (<http://www.saveservices.org>).

Complainants may wish to contact organizations such as:

- The Victim Rights Law Center (<http://www.victimrights.org>),
- The National Center for Victims of Crime (<http://www.victimsofcrime.org>), which maintains the Crime Victim's Bar Association.
- The Time's Up Legal Defense Fund: <https://nwlc.org/times-up-legal-defense-fund/>.

## **6. Resolution Processes**

Resolution proceedings are private. All persons present at any time during the Resolution Process are expected to maintain the privacy of the proceedings in accordance with South Plains College Policy.

Although there is an expectation of privacy around what Investigators share with parties during interviews, the parties have discretion to share their own knowledge and evidence with others if they so choose, except for information the parties agree not to disclose related to Informal Resolution, discussed below. SPC encourages parties to discuss any sharing of information with their Case Advisors before doing so. The Formal Grievance Process is SPC's primary resolution approach unless formal Resolution is elected by all parties and the College

### **A. Informal Resolution**

Three options for Informal Resolution are detailed in this section.

1. **Supportive Resolution.** When the Title IX Coordinator (for Complaints involving students) or Human Resources Director (for Complaints involving only employees) can resolve the matter informally by providing supportive measures (only) to remedy the situation.
2. **Alternative Resolution.** When the parties agree to resolve the matter through an alternate resolution mechanism as described below, including mediation, restorative practices, etc., usually before a formal investigation takes place ([see discussion in B](#) below).
3. **Accepted Responsibility.** When the Respondent accepts responsibility for violating policy, and desires to accept the recommended sanction(s) and end the Resolution Process ([see discussion in C](#) below).

To initiate Informal Resolution, a Complainant must submit a Formal Complaint, as defined above. A Respondent who wishes to initiate Informal Resolution should contact the Title IX Coordinator OR Human Resources Director. The parties may agree, as a condition of engaging in Informal Resolution, that statements made, or evidence shared, during the Informal Resolution process will not be considered in the Formal Grievance Process unless all parties consent.

It is not necessary to pursue Informal Resolution first in order to pursue a Formal Grievance Process, and any party participating in Informal Resolution can stop the process at any time and begin or resume the Formal Grievance Process. The Title IX Coordinator or Human Resources Director has discretion to determine if an investigation will be paused during Informal Resolution, or if it will be limited, or will continue during the Informal Resolution process.

Prior to implementing Informal Resolution, South Plains College will provide the parties with written notice of the reported misconduct and any sanctions (only in the case of Accepted Responsibility) or measures that may result from participating in such a process, including information regarding any records that will be maintained or shared by South Plains the College.

South Plains College will obtain voluntary, written confirmation that all parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the parties to participate in Informal Resolution.

## **B. Alternate Resolution Approaches**

Alternate Resolution is an informal approach, including mediation or restorative practices, etc., by which the parties reach a mutually agreed upon resolution of a complaint. All parties must consent to the use of an Alternate Resolution mechanism.

The Title IX Coordinator or Human Resources Director may look to the following factors to assess whether Alternate Resolution is appropriate, or which form of Alternate Resolution may be most successful for the parties:

- The parties' amenability to Alternate Resolution;
- Likelihood of potential resolution, considering any power dynamics between the parties;
- The nature and severity of alleged misconduct
- The parties' motivation to participate;
- Civility of the parties;
- Results of a violence risk assessment/ongoing risk analysis;
- Disciplinary history of the Respondent;
- Whether an emergency removal is needed;
- Skill of the Alternate Resolution facilitator with this type of complaint;
- Complaint complexity;
- Emotional investment/capability of the parties;
- Rationality of the parties;

- Goals of the parties;
- Adequate resources to invest in Alternate Resolution (time, staff, etc.)

The ultimate determination of whether Alternate Resolution is available or successful is made by the Title IX Coordinator or Human Resources Director. The Title IX Coordinator or Human Resources Director is authorized to facilitate a resolution that is acceptable to all parties, and/or to accept a resolution that is proposed by the parties, usually through their Advisors, including terms of confidentiality, release, and non-disparagement.

The Title IX Coordinator or Human Resources Director maintains records of any resolution that is reached, and failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions (e.g., referral for formal resolution, referral to the conduct process for failure to comply). Results of complaints resolved by Alternate Resolution are not appealable.

### **C. Respondent Accepts Responsibility for Alleged Violations**

The Respondent may accept responsibility for all or part of the alleged policy violations at any point during the Resolution Process. If the Respondent indicates an intent to accept responsibility for all the alleged misconduct, the formal process will be paused, and the Title IX Coordinator (for student Complaints) or Human Resources Director (for Complaints involving only employees) will determine whether Informal Resolution can be used according to the criteria above.

If Informal Resolution is applicable, the Title IX Coordinator or Human Resources Director will determine whether all parties and South Plains College are able to agree on responsibility, restrictions and/or remedies. If so, the Title IX Coordinator or Human Resources Director implements the accepted finding that the Respondent is in violation of SPC policy and implements agreed-upon restrictions and remedies and determines the appropriate sanction(s) in coordination with other appropriate administrator(s), as necessary.

This result is not subject to appeal once all parties indicate their written assent to all agreed upon resolution terms. When the parties cannot agree on all terms of resolution, the Formal Grievance Process will resume at the same point where it was paused<sup>39</sup>.

When a resolution is accomplished, the appropriate sanction(s) or responsive actions are promptly implemented to effectively stop the harassment or discrimination, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

## **7. Formal Grievance Process Pool**

The Formal Grievance Process relies on a pool of administrators (“the Pool”) to carry out the process. Members of the Pool are announced in an annual distribution of this Policy to all students, employees, prospective students, and prospective employees.

The list of Pool members and a description of the Pool can be found at <http://www.southplainscollege.edu/>

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<sup>39</sup> The parties may not want discussions that take place within Informal Resolution to be admissible in a later Formal Grievance Process, but essential facts must and do transfer from the informal process to the formal. Disclosing something in an informal setting to shield it from formal admissibility is a cynical strategy, so administrators should take care in determining the terms of any assurances of the confidentiality of the Informal Resolution.

### **A. Pool Member Roles**

Members of the Pool are trained annually, and can serve in in the following roles, at the discretion of the Title IX Coordinator and in collaboration (for Complaints involving employees) with the Human Resources Director:

- To provide appropriate intake of and initial guidance pertaining to complaints
- To act as a Case Advisor to the parties
- To serve in a facilitation role in Informal Resolution or Alternative Resolution if appropriately trained in appropriate resolution modalities (e.g., mediation, restorative practices, facilitated dialogue)
- To perform or assist with initial assessment
- To investigate complaints
- To serve as a hearing facilitator (process administrator, no decision-making role)
- To serve as a Decision-maker regarding the complaint
- To serve as an Appeal Decision-maker

### **B. Pool Member Appointment**

The Title IX Coordinator, in consultation with the Human Resource Director and the College President, appoints the Pool<sup>40</sup>, which acts with independence and impartiality. Although members of the Pool are typically trained in a variety of skill sets and can rotate amongst the different roles listed above in different complaints, South Plains College can also designate permanent roles for individuals in the Pool, using others as substitutes or to provide greater depth of experience when necessary. This process of role assignment may be the result of particular skills, aptitudes, or talents identified in members of the Pool that make them best suited to particular roles.

### **C. Pool Member Training**

The Pool members receive annual training based on their respective roles. This training includes, but is not limited to:

- The scope of South Plains College’s Equal Opportunity, Harassment, and Nondiscrimination Policy and Procedures
- How to conduct investigations and hearings that protect the safety of Complainants and Respondents, and promote accountability
- Implicit bias
- Disparate treatment and impact
- Reporting, confidentiality, and privacy requirements
- Applicable laws, regulations, and federal regulatory guidance
- How to implement appropriate and situation-specific remedies
- How to investigate in a thorough, reliable, timely, and impartial manner
- How to conduct a sexual harassment investigation
- Trauma-informed practices pertaining to investigations and resolution processes
- How to uphold fairness, equity, and due process
- How to weigh evidence
- How to conduct questioning
- How to assess credibility

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<sup>40</sup> This does not preclude South Plains College from having all members of the Pool go through an application and/or interview/selection process.

- Impartiality and objectivity
- How to render findings and generate clear, concise, evidence-based rationales
- The definitions of all offenses
- How to apply definitions used by South Plains College with respect to consent (or the absence or negation of consent) consistently, impartially, and in accordance with policy
- How to conduct an investigation and grievance process including hearings, appeals, and Informal Resolution Processes
- How to serve impartially by avoiding prejudice of the facts at issue, conflicts of interest, and bias against Respondents and/or for Complainants, and on the basis of sex, race, religion, and other protected characteristics
- Any technology to be used at a live hearing
- Issues of relevance of questions and evidence
- Issues of relevance to create an investigation report that fairly summarizes relevant evidence
- How to determine appropriate sanctions in reference to all forms of harassment, discrimination, and/or retaliation allegations
- Recordkeeping

The materials used to train all members of the Pool are publicly posted at <http://www.southplainscollege.edu/about/campussafety/sah.php>

#### **D. Pool Membership**

The Pool will include a representative set of employees of the college. Appointments to the pool is made with attention to representation of groups protected by the harassment and non-discrimination policy. Individuals who are interested in serving in the pool are encouraged to contact the Title IX Coordinator or the Human Resources Director.

At a minimum, the Pool will include the following number and types of employees:

- 4 or more chairs: one representative from HR and one from Student Affairs, etc., who are members and who respectively Chair hearings for allegations involving student and employee Respondents. These include then Dean of Students, Human Resource Director, Dean of the Reese Center, Executive Director of the Lubbock Center, and the Director of the Plainview Center.
- 3 or more members of the Academic Affairs administration and/or faculty
- 3 or more members of the administration/professional staff
- 1 representative from Campus Police Department
- 1 representative from Athletics

Pool members are usually appointed to three-year terms.

### **8. Formal Grievance Process: Notice of Investigation and Allegations**

The Title IX Coordinator (for Complaints involving students) or the Human Resource Director (for Complaints involving only employees) will provide written Notice of the Investigation and Allegations (the “NOIA”) to the Respondent upon commencement of the Formal Grievance Process. This facilitates the Respondent’s ability to prepare for the interview and to identify and choose a Case Advisor to accompany them. The NOIA is also copied to the Complainant, who will be given advance notice of when the NOIA will be delivered to the Respondent.

The NOIA will include:

- A meaningful summary of all allegations
- The identity of the involved parties (if known)
- The precise misconduct being alleged
- The date and location of the alleged incident(s) (if known)
- The specific policies implicated
- A description of the applicable procedures
- A statement of the potential sanctions/responsive actions that could result
- A statement that South Plains College presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination
- A statement that determinations of responsibility are made at the conclusion of the process and that the parties will be given an opportunity during the review and comment period to inspect and review all directly related and/or relevant evidence
- A statement about South Plains College's policy on retaliation
- Information about the confidentiality of the process
- Information on the need for each party to have a Case Advisor of their choosing and suggestions for ways to identify a Case Advisor
- A statement informing the parties that South Plains College's Policy prohibits knowingly making false statements, including knowingly submitting false information during the Resolution Process
- Detail on how the party may request disability accommodations during the Resolution Process
- A link to South Plains College's VAWA Brochure [What to do About Sexual Violence](#)
- The name(s) of the Investigator(s), along with a process to identify, in advance of the interview process, to the Title IX Coordinator any conflict of interest that the Investigator(s) may have
- An instruction to preserve any evidence that is directly related to the allegations

Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various charges.

Notice will be made in writing and may be delivered by one or more of the following methods: in person or emailed to the parties' SPC-issued email or designated accounts. Once emailed and/or received in-person, notice will be presumptively delivered. A text message will be sent asking the person to look at email regarding an important message. Mail notice will only be used if an email is returned as invalid or the person cannot be reached or is non-responsive.

## 9. Resolution Timeline

South Plains College will make a good faith effort to complete the Resolution Process within a sixty to ninety (60-90) business day time period, including appeal, which can be extended as necessary for appropriate cause by the Title IX Coordinator (for Complaints involving students) or the Human Resource Director (for Complaints involving only employees), who will provide notice and rationale for any extensions or delays to the parties as appropriate, as well as an estimate of how much additional time will be needed to complete the process.

## 10. Appointment of Investigators

Once the decision to commence a formal investigation is made, the Title IX Coordinator (for Complaints involving students) or the Human Resource Director (for Complaints involving only employees) appoints Pool members to conduct the investigation (depending on the complexity of the Complaint, using a team of two Investigators), usually within two (2) business days of determining that an investigation should proceed.

## **11. Ensuring Impartiality**

Any individual materially involved in the administration of the Resolution Process [including the Title IX Coordinator, Human Resource Director, Investigator(s), and Decision-maker(s)] may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

The Title IX Coordinator (for Complaints involving students) or the Human Resource Director (for Complaints involving only employees) will vet the assigned Investigator(s) to ensure impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. At any time during the Resolution Process, the parties may raise a concern regarding bias or conflict of interest, and the Title IX Coordinator or Human Resource Director will determine whether the concern is reasonable and supportable. If so, another Pool member will be assigned and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX Coordinator or the Human Resource Director, concerns should be raised with the South Plains College President.

The Formal Grievance Process involves an objective evaluation of all relevant evidence obtained, including evidence that supports that the Respondent engaged in a policy violation and evidence that supports that the Respondent did not engage in a policy violation. Credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness.

South Plains College operates with the presumption that the Respondent is not responsible for the reported misconduct unless and until the Respondent is determined to be responsible for a policy violation by the applicable standard of proof.

## **12. Investigation Timeline**

Investigations are completed expeditiously, normally within sixty (60) business days, though some investigations may take many weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, law enforcement involvement, etc.

South Plains College will make a good faith effort to complete investigations as promptly as circumstances permit and will communicate regularly with the parties to update them on the progress and timing of the investigation.

## **13. Investigation Process Delays and Interactions with Law Enforcement**

South Plains College may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include but are not limited to: a request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence of parties and/or witnesses, and/or health conditions.

South Plains College will communicate the anticipated duration of the delay and reason to the parties and provide the parties in writing with status updates if necessary. South Plains College will promptly resume its investigation and Resolution Process as soon as feasible. During such a delay, SPC will implement supportive measures as deemed appropriate.

SPC action(s) or processes are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

## 14. Investigation Process Steps

All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with all available relevant parties and witnesses; obtaining available, relevant evidence; and identifying sources of expert information, as necessary.

All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence and expert witnesses, and to fully review and respond to all evidence on the record. Recordings of interviews are not provided to the parties, but the parties will have the ability to review the summary of the interview as part of the investigation report once the report is compiled.

At the discretion of the Title IX Coordinator or Human Resources Director, investigations can be combined when complaints implicate a pattern, collusion, and/or other shared or similar actions.

The Investigator(s) typically take(s) the following steps, if not already completed (not necessarily in this order):

- Determine the identity and contact information of the Complainant
- Identify all policies implicated by the alleged misconduct and notify the Complainant and Respondent of all the specific policies implicated
- Assist the Title IX Coordinator or Human Resource Director with conducting a prompt initial assessment to determine if the complaint indicates a potential policy violation
- Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for the parties and the witnesses
- Meet with the Complainant to finalize their interview/statement, if necessary
- Prepare the initial Notice of Investigation and Allegations (NOIA). The NOIA may be amended with any additional or dismissed allegations
  - Notice should inform the parties of their right to have the assistance of a Case Advisor, who could be a member of the Pool or a Case Advisor of their choosing present for all meetings attended by the party
- Provide each interviewed party and witness an opportunity to review and verify the Investigator's summary notes (or transcript) of the relevant evidence/testimony from their respective interviews and meetings
- Make good faith efforts to notify each party of any meeting or interview involving another party, in advance when possible
- When participation of a party is expected, provide that party with written notice of the date, time, and location of the meeting, as well as the expected participants and purpose
- Interview all available, relevant witnesses and conduct follow-up interviews as necessary
- Allow each party the opportunity to suggest witnesses and questions they wish the Investigator(s) to ask of another party and/or witnesses, and document in the report which questions were asked, with a rationale for any changes or omissions
- Complete the investigation promptly and without unreasonable deviation from the intended timeline
- Provide regular status updates to the parties throughout the investigation
- Prior to the conclusion of the investigation, provide the parties and their respective Case Advisors (if so desired by the parties) with a list of witnesses whose information will be used to render a finding
- Write a comprehensive investigation report fully summarizing the investigation, all witness interviews, and addressing all relevant evidence. Appendices including relevant physical or documentary evidence will be included
- Gather, assess, and synthesize evidence, but make no conclusions, engage in no policy analysis, and render no recommendations as part of their report

- Prior to the conclusion of the investigation, provide the parties and their respective Case Advisors (if so desired by the parties) a secured electronic or hard copy of the draft investigation report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported misconduct, including evidence upon which South Plains College does not intend to rely in reaching a determination, for a ten (10) business day review and comment period so that each party may meaningfully respond to the evidence. The parties may elect to waive the full ten (10) days. Each copy of the materials shared will be watermarked on each page with the role of the person receiving it (e.g., Complainant, Respondent, Complainant’s Case Advisor, Respondent’s Case Advisor).
- Elect to respond in writing in the investigation report to the parties’ submitted responses and/or to share the responses between the parties for additional responses
- Incorporate relevant elements of the parties’ written responses into the final investigation report, include any additional relevant evidence, make any necessary revisions, and finalize the report. The Investigator(s) should document all rationales for any changes made after the review and comment period
- Share the report with the Title IX Coordinator or the Human Resource Director and/or legal counsel for their review and feedback
- Incorporate any relevant feedback and share the final report with all parties and their Case Advisors through secure electronic transmission or hard copy at least ten (10) business days prior to a hearing. The parties and Case Advisors are also provided with a file of any directly related evidence that was not included in the report

## **15. Witness Role and Participation in the Investigation**

Witnesses (as distinguished from the parties) who are employees of South Plains College are expected to cooperate with and participate in the College’s investigation and Resolution Process. Student witnesses and witnesses from outside the SPC community are encouraged to cooperate with investigations and share what they know about a complaint.

Although in-person interviews for parties and all potential witnesses are ideal, circumstances (e.g., study abroad, summer break) may require individuals to be interviewed remotely. Skype, Zoom, FaceTime, MS Teams, Blackboard Collaborate or similar technologies may be used for interviews if the Investigator(s) determine that timeliness or efficiency dictate a need for remote interviewing. South Plains College will take appropriate steps to reasonably ensure the security/privacy of remote interviews.

Witnesses may also provide written statements in lieu of interviews or choose to respond to written questions, if deemed appropriate by the Investigator(s), though not preferred.

## **16. Interview Recording**

No unauthorized audio or video recording of any kind is permitted during investigation meetings. If Investigator(s) elect to audio and/or video record interviews, all involved parties will be made aware of audio and/or video recording. The State of Texas has a “one-party consent” law that requires that only one party to the conversation consents to recording.

## **17. Evidentiary Considerations**

Nether the investigation nor the hearing will consider: (1) incidents not relevant or not directly related to the possible violation(s), unless they evidence a pattern; or (2) questions and evidence about the Complainant's sexual predisposition; or (3) questions and evidence about the Complainant's prior sexual behavior, 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.

Within the boundaries stated above, the investigation and the hearing can consider character evidence generally, if offered, but that evidence is unlikely to be relevant unless it is fact evidence or relates to a pattern of conduct.

## **18. Referral for Hearing**

Provided that the complaint is not resolved through Informal Resolution, once the final investigation report is shared with the parties, the Title IX Coordinator (for Complaints involving students) or the Human Resource Director (for Complaints involving only students) will refer the matter for a hearing.

The hearing cannot be less than ten (10) business days from the conclusion of the investigation –when the final investigation report is transmitted to the parties and the Decision-maker(s) –unless all parties and the Decision-maker(s) agree to an expedited timeline.

The Title IX Coordinator or Human Resources Director will select an appropriate Decision-maker(s) from the Pool and provide a copy of the investigation report and the file of directly related evidence. Allegations involving student-employees in the context of their employment will be directed to the appropriate Decision-maker depending on the context and nature of the alleged misconduct.

## **19. Hearing Decision-maker Composition**

South Plains College will designate a single Decision-maker or a three-member panel from the Pool, at the discretion of the Title IX Coordinator (for Complaints involving students) or the Human Resources Director (for Complaints involving only employees). The single Decision-maker will also Chair the hearing. With a panel, one of the three members will be appointed as Chair by the Title IX Coordinator or the Human Resources Director.

The Decision-maker(s) will not have had any previous involvement with the complaint. The Title IX Coordinator or Human Resources Director may elect to have an alternate from the Pool sit in throughout the hearing process in the event that a substitute is needed for any reason.

Those who have served as Investigators will be witnesses in the hearing and therefore may not serve as Decision-makers. Those who are serving as Case Advisors for any party may not serve as Decision-makers in that matter.

The Title IX Coordinator or Human Resources Director may not serve as a Decision-maker or Chair in the matter but may serve as an administrative facilitator of the hearing if their previous role(s) in the matter do not create a conflict of interest. Otherwise, a designee may fulfill the facilitator role. The hearing will convene at a time and venue determined by the Title IX Coordinator or Human Resources Director or designee.

## **20. Additional Evidentiary Considerations in the Hearing**

Previous disciplinary action of any kind involving the Respondent may not be used unless there is an allegation of a pattern of misconduct. Such information may also be considered in determining an appropriate sanction upon a determination of responsibility, assuming the Recipient uses a progressive discipline system. This information is only considered at the sanction stage of the process and is not shared until then.

The parties may each submit a written impact and/or mitigation statement prior to the hearing for the consideration of the Decision-maker(s) at the sanction stage of the process when a determination of responsibility is reached.

After post-hearing deliberation, the Decision-maker(s) renders a determination based on the preponderance of the evidence; whether it is more likely than not that the Respondent violated the Policy as alleged.

## **21. Hearing Notice**

No less than ten (10) business days prior to the hearing, the Title IX Coordinator, Human Resources Director or the Chair will send notice of the hearing to the parties. Once emailed, and/or received in-person, notice will be presumptively delivered.

The notice will contain:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanctions/responsive actions that could result.
- The time, date, and location of the hearing
- Description of any technology that will be used to facilitate the hearing.
- Information about the option for the live hearing to occur with the parties located in separate rooms using technology that enables the Decision-maker(s) and parties to see and hear a party or witness answering questions. Such a request must be raised with the Title IX Coordinator or Human Resources Director as soon as possible, preferably at least five (5) business days prior to the hearing.
- A list of all those who will attend the hearing, along with an invitation to object to any Decision-maker(s) based on demonstrated bias or conflict of interest. This must be raised with the Title IX Coordinator or the Human Resources Director at least two (2) business days prior to the hearing.
- Information on how the hearing will be recorded and how the parties can access the recording after the hearing.
- A statement that if any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence. For compelling reasons, the Chair may reschedule the hearing.
- Notification that the parties may have the assistance of a Case Advisor of their choosing at the hearing and will be required to have one present for any questions they may desire to ask. The party must notify the Title IX Coordinator or Human Resources Director if they wish to conduct questioning and do not have a Case Advisor, and South Plains College will appoint one. Each party must have a Case Advisor present if they intend to question others. There are no exceptions.
- A copy of all the materials provided to the Decision-maker(s) about the matter, unless they have

already been provided.<sup>41</sup>

- An invitation to each party to submit to the Chair an impact and or mitigation statement pre-hearing that the Decision-maker will review during any sanction determination.
- An invitation to contact the Title IX Coordinator or Human Resources Director to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, at least seven (7) business days prior to the hearing.
- Whether parties can/cannot bring mobile phones/devices into the hearing.

Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to this Policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline followed by South Plains College and remain within the 60-90 business day goal for resolution. Employees who do not have 12-month contracts are still expected to participate in Resolution Proceedings that occur during months between contracts.

In these cases, if the Respondent is a graduating student, a hold may be placed on graduation and/or official transcripts until the matter is fully resolved (including any appeal). A student facing charges under this Policy is not in good standing to graduate.

## **22. Alternative Hearing Participation Options**

If a party or parties prefer not to attend or cannot attend the hearing in person, the party should request alternative arrangements from the Title IX Coordinator, the Human Resources Director or the Chair as soon as possible, preferably at least five (5) business days prior to the hearing.

The Title IX Coordinator, Human Resources Director or the Chair can arrange to use technology to allow remote testimony without compromising the fairness of the hearing. Remote options may also be needed for witnesses who cannot appear in person. Any witness who cannot attend in person should let the Title IX Coordinator, Human Resources Director or the Chair know as soon as possible, at least five (5) business days prior to the hearing so that appropriate arrangements can be made.

## **23. Pre-Hearing Preparation**

The Chair or hearing facilitator after any necessary consultation with the parties, Investigator(s) and/or Title IX Coordinator or Human Resources Director, will provide the names of persons who have been asked to participate in the hearing, all pertinent documentary evidence, and the final investigation report to the parties at least ten (10) business days prior to the hearing.

Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator(s) or have proffered a written statement or answered written questions, unless all parties and the Chair assent to the witness's participation in the hearing. The same holds for any relevant evidence that is first offered at the hearing. If the parties and Chair do not assent to the admission of evidence newly offered at the hearing, the

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<sup>41</sup> The final investigation report may be shared using electronic means that preclude downloading, forwarding, or otherwise sharing.

Chair may delay the hearing and/or instruct that the investigation needs to be re-opened to consider that evidence.<sup>42</sup>

The parties will be given a list of the names of the Decision-maker(s) at least five (5) business days in advance of the hearing. All objections to any Decision-maker must be raised in writing, detailing the rationale for the objection, and must be submitted to the Title IX Coordinator or Human Resources Director as soon as possible and no later than two (2) business days prior to the hearing. Decision-makers will only be removed if the Title IX Coordinator or Human Resources Director concludes that their actual or perceived bias or conflict of interest precludes an impartial hearing of the complaint.

The Title IX Coordinator or Human Resources Director will give the Decision-maker(s) a list of the names of all parties, witnesses, and Case Advisors at least five (5) business days in advance of the hearing. Any Decision-maker who cannot make an objective determination must recuse themselves from the proceedings when notified of the identity of the parties, witnesses, and Case Advisors in advance of the hearing. If a Decision-maker is unsure of whether a bias or conflict of interest exists, they must raise the concern to the Title IX Coordinator or Human Resources Director as soon as possible.

During the ten (10) business day period prior to the hearing, the parties have the opportunity for continued review and comment on the final investigation report and available evidence. That review and comment can be shared with the Chair at the pre-hearing meeting or at the hearing and will be exchanged between each party by the Chair.

## 24. Pre-Hearing Meetings

The Chair may convene a pre-hearing meeting(s) with the parties and/or their Case Advisors to invite them to submit the questions or topics they (the parties and/or their Case Advisors)<sup>43</sup> wish to ask or discuss at the hearing, so that the Chair can rule on their relevance ahead of time to avoid any improper evidentiary introduction in the hearing or provide recommendations for more appropriate phrasing.

However, this advance review opportunity does not preclude the Case Advisors from asking a question for the first time at the hearing or from asking for a reconsideration on a pre-hearing ruling by the chair based on any new information or testimony offered at the hearing. The Chair must document and share with each party their rationale for any exclusion or inclusion at a pre-hearing meeting.

The Chair, **only** with full agreement of the parties, may decide in advance of the hearing that certain witnesses do not need to be present if their testimony can be adequately summarized by the Investigator(s) in the investigation report or during the hearing.

At each pre-hearing meeting with a party and/or their Case Advisor, the Chair will consider arguments that evidence identified in the final investigation report as relevant is, in fact, not relevant. Similarly, evidence identified as directly related but not relevant by the Investigator(s) may be argued to be relevant. The Chair may rule on these arguments pre-hearing and will exchange those rulings between the parties prior to the

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<sup>42</sup> 34 C.F.R. § 668.46(k)(3)(B)(3) requires “timely and equal access to the accuser, the accused, and appropriate officials to any information that will be used during informal and formal disciplinary meetings and hearings.”

<sup>43</sup> Pre-hearing meetings with the parties must include the Case Advisor. However, the meeting can be held with just the Case Advisor and the Chair.

hearing to assist in preparation for the hearing. The Chair may consult with legal counsel and/or the Title IX Coordinator or ask either or both to attend pre-hearing meetings.

The pre-hearing meeting(s) will not be recorded. The pre-hearing meetings may be conducted as separate meetings with each party/Case Advisor, with all parties/Case Advisors present at the same time, remotely, or as a written-only exchange. The Chair will work with the parties to establish the format.

## **25. Hearing Procedures**

At the hearing, the Decision-maker(s) have the authority to hear and make determinations on all allegations of discrimination, harassment, and/or retaliation and may also hear and make determinations on any additional alleged policy violations that have occurred in concert with the discrimination, harassment, and/or retaliation, even though those collateral allegations may not specifically fall within the Equal Opportunity, Harassment, and Nondiscrimination Policy.

Participants at the hearing will include the Chair, any additional panelists, the hearing facilitator, the Investigator(s) who conducted the investigation, the parties (or three (3) organizational representatives when an organization is the Respondent) Case Advisors to the parties, any called witnesses, and anyone providing authorized accommodations or assistive services.

The Chair will answer all questions of procedure. Anyone appearing at the hearing to provide information will respond to questions on their own behalf.

The Chair will allow witnesses who have relevant information to appear at a portion of the hearing to respond to specific questions from the Decision-maker(s) and the parties and the witnesses will then be excused. The investigator(s) will remain present for the duration of the hearing.

## **26. Joint Hearings**

In hearings involving more than one Respondent and/or in which more than one Complainants who has accused the same individual of substantially similar conduct, the default procedure will be to hear the allegations jointly.

However, the Title IX Coordinator or Human Resources Director may permit the investigation and/or hearings pertinent to each Respondent or complaint to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent and/or for each complaint with respect to each alleged policy violation.

## **27. The Order of the Hearing – Introductions and Explanation of Procedure**

The Chair explains the procedures and introduces the participants. This may include a final opportunity for challenge or recusal of the Decision-maker(s) based on bias or conflict of interest. The Chair will rule on any such challenge unless the Chair is the individual who is the subject of the challenge, in which case the Title IX Coordinator will review the challenge and decide.

The Chair then conducts the hearing according to the hearing script. At the hearing, recording, witness logistics, party logistics, curation of documents, separation of the parties, and other administrative elements of the hearing process are managed by a non-voting hearing facilitator appointed by the Title IX Coordinator. If not conflicted out by previous involvement, the Title IX Coordinator may serve as the hearing

facilitator/case manager

The hearing facilitator may attend to: logistics of rooms for various parties/witnesses as they wait; flow of parties/witnesses in and out of the hearing space; ensuring recording and/or virtual conferencing technology is working as intended; copying and distributing materials to participants, as appropriate, etc.

## **28. Investigator Presentation of Final Investigation Report**

The Investigator(s) will present a summary of the final investigation report, including items that are contested and those that are not, and will be subject to questioning by the Decision-maker(s) and the parties (through their Case Advisors). The Investigator(s) will be present during the entire hearing process, but not during deliberations.

Neither the parties nor the Decision-maker(s) should ask the Investigator(s) their opinions on credibility, recommended findings, or determinations, and the Investigators, Case Advisors, and parties will refrain from discussion of or questions for Investigator(s) about these assessments. If such information is introduced, the Chair will direct that it be disregarded.

## **29. Testimony and Questioning**

Once the Investigator(s) present their report(s) and respond(s) to questions, the parties and witnesses may provide relevant information in turn, beginning with the Complainant, and then in the order determined by the Chair. The parties/witnesses will submit to questioning by the Decision-maker(s) and then by the parties through their Case Advisors.

All questions are subject to a relevance determination by the Chair. The Case Advisor, who will remain seated during questioning, will pose the proposed question orally, electronically, or in writing (orally is the default, but other means of submission may be permitted by the Chair upon request if agreed to by all parties and the Chair), the proceeding will pause to allow the Chair to consider the question (and state it if it has not been stated aloud), and the Chair will determine whether the question will be permitted, disallowed, or rephrased.

The Chair may invite explanations or persuasive statements regarding relevance with the Case Advisors, if the Chair so chooses. The Chair will then state their decision on the question for the record and advise the party/witness to whom the question was directed, accordingly. The Chair will explain any decision to exclude a question as not relevant, or to reframe it for relevance.

The Chair will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), or abusive. The Chair has final say on all questions and determinations of relevance. The Chair may consult with legal counsel on any questions of admissibility. The Chair may ask Case Advisors to frame why a question is or is not relevant from their perspective but will not entertain argument from the Advisors on relevance once the Chair has ruled on a question.

If the parties raise an issue of bias or conflict of interest of an Investigator or Decision-maker at the hearing, the Chair may elect to address those issues, consult with legal counsel, and/or refer them to the Title IX Coordinator or Human Resource Director, and/or preserve them for appeal. If bias is not in issue at the hearing, the Chair should not permit irrelevant questions that probe for bias.

### **30. Refusal to Submit to Questioning; Inferences**

Any party or witness may choose not to offer evidence and/or answer questions at the hearing, either because they do not attend the hearing, or because they attend but refuse to participate in some or all questioning. The Decision-maker(s) can only rely on whatever relevant evidence is available through the investigation and hearing in making the ultimate determination of responsibility. The Decision-maker(s) may not draw any inference solely from a party's or witness's absence from the hearing or refusal to submit to questioning or answer other questions.

A Case Advisor may not be called as a witness at a hearing to testify to what their advisee has told them during their role as a Case Advisor unless the party being advised consents to that information being shared. It is otherwise considered off-limits, and a Case Advisor who is an institutional employee is temporarily alleviated from mandated reporter responsibilities related to their interaction with their advisee during the Resolution Process.

### **31. Hearing Recordings**

Hearings (but not deliberations) are recorded by South Plains College for purposes of review in the event of an appeal. The parties may not record the proceedings and no other unauthorized recordings are permitted.

The Decision-maker(s), the parties, their Case Advisors, and appropriate administrators of South Plains College will be permitted to review the recording upon request to the Title IX Coordinator or Human Resources Director. No person will be given or be allowed to make a copy of the recording without permission of the Title IX Coordinator or Human Resources Director.

### **32. Deliberation, Decision-making, and Standard of Proof**

The Decision-maker(s) will deliberate in closed session to determine whether the Respondent is responsible for the policy violation(s) in question. If a panel is used, a simple majority vote is required to determine the finding. The preponderance of the evidence standard of proof is used. The hearing facilitator may be invited to attend the deliberation by the Chair, but is there only to facilitate procedurally, not to address the substance of the allegations.

When there is a finding of responsibility on one or more of the allegations, the Decision-maker(s) may then consider the previously submitted party impact and/or mitigation statement(s) in determining appropriate sanction(s). The Chair will ensure that each of the parties has an opportunity to review any submitted impact and/or mitigation statement(s) once they are submitted. The Decision-maker(s) may – at their discretion – consider the statements, but they are not binding.

The Decision-maker(s) will also review any pertinent conduct history provided by appropriate by the appropriate administrator and will recommend the appropriate sanction(s) in consultation with other appropriate administrators, as required.

The Chair will then prepare a written statement detailing all findings and the final determinations, the rationale(s) explaining the decision(s), the evidence used in support of the determination(s), the evidence not relied upon in the determination(s), any credibility assessments, and any sanction(s) or recommendation(s) and rationales explaining the sanction(s) and will deliver the statement to the Title IX Coordinator or Human Resources Director.

This statement is typically three to five (3-5) pages in length and must be submitted to the Title IX Coordinator or Human Resources Director within two (2) business days of the end of deliberations, unless the Title IX Coordinator or Human Resources Director grants an extension. If an extension is granted, the Title IX

Coordinator or Human Resources Director will notify the parties.

### **33. Notice of Outcome**

Using the deliberation statement, the Title IX Coordinator or Human Resources Director will work with the Chair to prepare a Notice of Outcome. The Title IX Coordinator or Human Resources Director will then share the letter, which includes the final determination, rationale, and any applicable sanction(s) with the parties and their Case Advisors within five (5) business days of receiving the deliberation statement.

The Notice of Outcome will then be shared with the parties simultaneously. Notification will be made in writing and may be delivered by one or more of the following methods: in person or emailed to the parties' SPC-issued email or otherwise approved account. Once emailed, and/or received in-person, notice will be presumptively delivered.

The Notice of Outcome will articulate the specific alleged policy violations, including the relevant policy section(s), and will contain a description of the procedural steps taken by South Plains College from the receipt of the misconduct report to the determination, including any and all notifications to the parties, interviews with parties and witnesses, site visits, methods used to obtain evidence, and hearings held.

The Notice of Outcome will specify the finding for each alleged policy violation; the findings of fact that support the determination; conclusions regarding the application of the relevant policy to the facts at issue; a statement of, and rationale for, the result of each allegation to the extent South Plains College is permitted to share such information under state or federal law; any sanction(s) issued which the College is permitted to share according to state or federal law; and any remedies provided to the Complainant designed to ensure access to the College's educational or employment program or activity, to the extent the College is permitted to share such information under state or federal law (this detail is not typically shared with the Respondent unless the remedy directly relates to the Respondent).

The Notice of Outcome will also include information on when the results are considered final by South Plains College, any changes to the outcomes and/or sanction(s) that occur prior to finalization, and the relevant procedures and bases for appeal.

### **34. Rights of the Parties (see Appendix C)**

### **35. 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 previous allegations or allegations involving similar conduct and disciplinary history
- 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(s)

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.

If it is later determined that a party or witness intentionally provided false or misleading information, that action could be grounds for re-opening a grievance process at any time, and/or referring that information to another process for resolution.

### **A. Student Sanctions**

The following are the usual sanctions that may be imposed upon students or organizations singly or in combination. Sanctions that require a transcript notation are in alignment with Texas Education Code 51.9364.:

- Warning or Reprimand – All offenses that may be punishable by reprimand or warning shall be regarded as minor offenses. These actions are cumulative and are considered official college actions and are recorded in the Office of the Dean of Students.
- Referral to Health & Wellness – Under certain situations, a student may be referred to Health and Wellness for counseling services. A set number of visits is established within a given amount of time. Failure to complete prescribed sessions will result in a hold being placed on the student’s account for failure to comply. The hold may be lifted once the requirements for all sanctions have been fulfilled.
- Restriction – It may be determined that a student should be restricted from specified campus facilities, organizations or activities as a part of disciplinary action.
- Community Service - A student may be assigned to do additional class work or other community service jobs on campus, as determined by the Dean of Students, the Dean of the Reese Center, the Executive Director of the Lubbock Center, or the Director of the Plainview Center.
- Disciplinary Probation – Any offense leading to disciplinary probation is regarded as a major offense. Disciplinary probation is applied for a stated period with or without specified restrictive conditions. Restrictive conditions may include but are not limited to: removing the right of the student to receive any college award, scholarships, or financial aid; removing the right to occupy any position of leadership in any college or student organization or activity; removing the right to operate a motor vehicle on campus. The student is required to show appropriate changes in attitude and behavior during the probationary period.
- Disciplinary Suspension – Any offense leading to disciplinary suspension is regarded as a major offense. Suspension is normally for a stated period, but never less than the remainder of the semester in which the offense is committed. During the period of disciplinary suspension, the student’s transcript will have a notation indicating “Disciplinary Suspension effective until MM/DD/YYYY.” During suspension, the student shall not attend classes, participate in any college related activity, or be on campus for any reason except application for readmission. Readmission on probation may be granted at the end of the suspension period.
- Expulsion – Expulsion is the permanent removal from South Plains College with no opportunity for readmission. Expulsion shall be used only in cases of extreme misconduct. The student’s transcript will have a notation of “Disciplinary Expulsion – MM/DD/YYYY.”
- Removal from College Housing – In certain instances, the Dean of Students or Associate Dean of Students may remove a student from college housing and allow him/her to continue attending classes.

## **B. Student Organization Sanctions**

The following are the common sanctions that may be imposed upon student organizations singly or in combination:

- **Warning:** A formal statement that the conduct was unacceptable and a warning that further violation of any Recipient policy, procedure, or directive will result in more severe sanctions/responsive actions.
- **Probation:** A written reprimand for violation of institutional policy, providing for more severe disciplinary sanctions in the event that the organization is found in violation of any institutional policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social and event privileges, denial of Recipient funds, ineligibility for honors and awards, restrictions on new member recruitment, no-contact orders, and/or other measures deemed appropriate.
- **Suspension:** Termination of student organization recognition for a definite period of time not to exceed two years and/or until specific criteria are met. During the suspension period, a student organization may not conduct any formal or informal business or participate in Recipient-related activities, whether they occur on or off campus. Re-recognition is possible but not guaranteed and will only be considered after the end of the suspension period and based on meeting all re-recognition criteria and obtaining clearance from the Recipient.
- **Expulsion:** Permanent termination of student organization recognition and revocation of the privilege to congregate and conduct business on campus as an organization for any reason.
- **Loss of Privileges:** Restricted from accessing specific Recipient privileges for a specified period of time.
- **Other Actions:** In addition to or in place of the above sanctions, South Plains College may assign any other sanctions as deemed appropriate.

## **C. Employee Sanctions/Responsive Actions**

Responsive actions for an employee who has engaged in harassment, discrimination and/or retaliation include:

- Verbal or Written Warning
- Performance Improvement/Management Process
- Required Counseling
- Required Training or Education
- Probation
- 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, South Plains College may assign any other sanctions as deemed appropriate.

## 36. Withdrawal or Resignation Before Complaint Resolution

### A. Students:<sup>44</sup>

If a student has an allegation pending for violation of this policy, South Plains College may place a hold on a student's ability to graduate and/or to receive an official transcript/diploma. A notation may be placed on the transcript indicating "Pending Disciplinary Charges – MM/DD/YYYY."

Should a Respondent decide not participate in the Resolution Process, the process proceeds absent their participation to a reasonable resolution. Should a student Respondent permanently withdraw or graduate from South Plains College, during the pendency of the resolution process South Plains College will continue its process until a Decision-maker reaches a final determination on responsibility. SPC will not issue a transcript to the Respondent until it reaches a final determination on responsibility. The disciplinary process may be expedited as necessary to accommodate both the Respondent and Complainant's interest in a speedy resolution. On request by another postsecondary educational institution, the Recipient shall provide the requesting institution information relating to a determination by the Recipient that a student enrolled at the institution violated the institution's code of conduct by committing sexual harassment, sexual assault, dating violence, or stalking.

Regardless of whether the complaint is dismissed or pursued to completion of the Resolution Process, South Plains College will continue to address and remedy any systemic issues, variables that may have contributed to the alleged violation(s), and any ongoing effects of the alleged harassment, discrimination, and/or retaliation. The student who withdraws or leaves while the process is pending may not return to South Plains College until discussion with the Title IX Coordinator has occurred. Such exclusion applies to all campuses of SPC. A hold will be placed on their ability to be readmitted until released by the Title IX Coordinator or designee. They may also be barred from SPC property and/or events.

If the student Respondent only withdraws or takes a leave for a specified period of time (e.g., one semester or term), the resolution process may continue remotely, and that student is not permitted to return to SPC unless and until all sanctions have been satisfied.

### B. Employees:

Should an employee Respondent resign with unresolved allegations pending, the Resolution Process typically ends with dismissal, as South Plains College has lost primary disciplinary jurisdiction over the resigned employee. Regardless of whether the complaint is dismissed or pursued to completion of the Resolution Process, the College will continue to address and remedy any systemic issues or concerns that contributed to the alleged violation(s), and any ongoing effects of the alleged harassment, discrimination, and/or retaliation.

The employee who resigns with unresolved allegations pending is not eligible for rehire with South Plains College, and the records retained by the Title IX Coordinator and Human Resource Director will reflect that status.

All SPC responses to future inquiries regarding employment references for that individual include only the name, title(s), dates of service, and eligibility for rehire.

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<sup>44</sup> Texas Education Code Chapter 51, Subchapter E-3, Section 51.287

### **37. Appeals**

Any party may submit a written request for appeal (“Request for Appeal”) to the Title IX Coordinator (for Complaints involving students) or Human Resource Director (for Complaints involving only employees) within five (5) business days of the delivery of the Notice of Outcome.

The Title IX Coordinator or the Human Resource Director will act as the sole decision (Appeal Chair) maker for all appeals. The Title IX Coordinator or Human Resource Director must not have been involved in the process of previous hearings or decision. If this is not possible, a Decision-maker will be determined from the Pool who has not been involved in the Complaint previously.

The Request for Appeal will be forwarded to the Title IX Coordinator or the Human Resources Director for consideration to determine if the request meets the grounds for appeal (a Review for Standing).

This review is not a review of the merits of the appeal, but solely a determination as to whether the request meets the grounds and is timely filed.

#### **A. Grounds for Appeal**

Appeals are limited to the following grounds:

- 1) A procedural irregularity affected the outcome of the matter
- 2) New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter
- 3) The Title IX Coordinator, Human Resources Director, Investigator(s), or Decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter

If any of the grounds in the Request for Appeal do not meet the grounds in this Policy, that request will be denied by the Appeal Chair, and the parties and their Case Advisors will be notified in writing of the denial and the rationale.

If any of the grounds in the Request for Appeal meet the grounds in this Policy, then the Appeal Chair will notify all parties and their Case Advisors, the Title IX Coordinator or Human Resources Director, and, when appropriate, the Investigator(s) and/or the original Decision-maker(s).

All other parties and their Case Advisors, the Title IX Coordinator or Director of Human Resources, and, when appropriate, the Investigator(s) and/or the original Decision-maker(s) will be emailed and/or provided a hard copy of the request with the approved grounds and then be given five (5) business days to submit a response to the portion of the appeal that was approved and involves them. All responses will be forwarded by the Appeal Chair to all parties for review and comment.

The non-appealing party (if any) may also choose to appeal at this time. If so, that will be reviewed to determine if it meets the grounds in this Policy by the Appeal Chair and either denied or approved. If approved, it will be forwarded to the party who initially requested an appeal, Title IX Coordinator or Human Resources Director, and the Investigator(s) and/or original Decision-maker(s), as necessary, who will submit their responses in five (5) business days. Any such responses will be circulated for review and comment by all parties. If not approved, the parties will be notified accordingly in writing.

Neither party may submit any new requests for appeal after this time period. The Appeal Chair will collect any additional information needed and all documentation regarding the approved grounds and the subsequent responses and the Appeal Chair will render a decision within no more than three

(3) business days, barring exigent circumstances. All decisions apply the preponderance of the evidence standard.

A Notice of Appeal Outcome will be sent to all parties simultaneously. The Notice of Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanction(s) that may result which South Plains College is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent South Plains College is permitted to share under state or federal law.

Notification will be made in writing and may be delivered by one or more of the following methods: in person or emailed to the parties' SPC-issued email or otherwise approved account. Once emailed and/or received in-person, notice will be presumptively delivered.

### **B. Sanctions Status During the Appeal**

Any sanction(s) imposed as a result of the hearing are stayed (i.e., not implemented) during the appeal process. Supportive measures may be reinstated, subject to the same supportive measure procedures above.

If any of the sanctions are to be implemented immediately post-hearing, but pre-appeal, then the emergency removal procedures (detailed above) for a show cause meeting on the justification for doing so must be permitted within 48 hours of implementation.

The College may still place holds on official transcripts, diplomas, graduations, and course registration pending the outcome of an appeal when the original sanctions included separation.

### **C. Appeal Considerations**

- Appeals are not intended to provide for a full re-hearing (de novo) of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal.
- Decisions on appeal are to be deferential to the original decision, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so.
- An appeal is not an opportunity for Appeal Decision-makers to substitute their judgment for that of the original Decision-maker(s) merely because they disagree with the finding and/or sanction(s).
- The Appeal Chair/Decision-maker(s) may consult with the Title IX Coordinator or Human Resources Director and/or legal counsel on questions of procedure or rationale, for clarification, if needed. Documentation of all such consultation will be maintained.
- Appeals granted should normally be remanded (or partially remanded) to the original Investigator(s) and/or Decision-maker(s) for reconsideration.
- Once an appeal is decided, the outcome is final: further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new hearing). When appeals result in no change to the finding(s) or sanction(s), that decision is final. When an appeal results in a new finding(s) or sanction(s), those finding(s) or sanction(s) can be appealed one final time on the grounds listed above and in accordance with these procedures.
- In rare cases where an error cannot be cured by the original Investigator(s) and/or Decision-maker(s) or the Title IX Coordinator of Human Resources Director (as in cases of bias), the Appeal Chair/Decision-maker(s) may order a new investigation and/or a new hearing with a new Pool members serving in the Investigator and Decision-maker(s) roles.
- The results of a new hearing can be appealed, once, on any of the three available appeal grounds.
- In cases in that result in reinstatement to South Plains College or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

### **38. Long-Term Remedies/Other Actions**

Following the conclusion of the Resolution Process, and in addition to any sanctions implemented, the Title IX Coordinator or Human Resources Director may implement additional long-term remedies or actions with respect to the parties and/or the college community that are intended to stop the harassment, discrimination, and/or retaliation, remedy the effects, and prevent reoccurrence.

These remedies/actions may include, but are not limited to:

- Student referral to Health and Wellness services
- Employee referral to the Employee Assistance Program
- Education to the individual and/or the community
- Permanent alteration of student housing assignments
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification and/or training
- Provision of transportation assistance
- Implementation of long-term contact limitations between the parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator or Human Resources Director, certain long-term support or measures may also be provided to the parties even if no policy violation is found.

When no policy violation is found, the Title IX Coordinator or Human Resources Director will address any remedies y South Plains College to owes the Respondent to ensure no effective denial of educational access.

South Plains College will maintain the confidentiality of any long-term remedies/actions/measures, provided confidentiality does not impair the College's ability to provide these services.

### **39. Failure to Comply with Sanctions and/or Interim and Long-term Remedies and/or Responsive Actions**

All Respondents are expected to comply with the assigned sanctions, responsive actions, and/or corrective actions within the timeframe specified by the final Decision-maker(s) (including the Appeal Chair/Decision-maker(s)).

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from South Plains College and may be noted on a student's official transcript. Supervisors are expected to enforce completion of sanctions/responsive actions for their employees.

A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator or the Human Resources Director.

### **40. Recordkeeping**

South Plains College will maintain for a period of at least seven years following the conclusion of the

Resolution Process records of:

- 1) Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation
- 2) Any disciplinary sanctions imposed on the Respondent
- 3) Any remedies provided to the Complainant designed to restore or preserve equal access to South Plains College's education program or activity
- 4) Any appeal and the result therefrom
- 5) Any Informal Resolution and the result therefrom
- 6) All materials used to train Title IX Coordinators, Investigators, Decision-makers, and any person who facilitates an Informal Resolution process. South Plains College will make these training materials publicly available on SPC's website.
- 7) Any actions, including any supportive measures, taken in response to a report or Formal Complaint of sexual harassment, including:
  - a. The basis for all conclusions that the response was not deliberately indifferent
  - b. Any measures designed to restore or preserve equal access to the College's education program or activity
  - c. If no supportive measures were provided to the Complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances

SPC will also maintain any and all records in accordance with state and federal laws.

#### **41. Disability Accommodations in the Resolution Process**

South Plains College is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to the College's Resolution Process.

Anyone needing such accommodations or support should contact the Coordinator of Disability Services (students) or the Human Resources Director (employees), who will review the request and, in consultation with the person requesting the accommodation and the Title IX Coordinator, determine which accommodations are appropriate and necessary for full participation in the process.

## APPENDIX B: Prohibited Conduct Examples (Title IX)

### Examples of Possible Title IX Sexual Harassment

- A professor offers for a student to have sex or go on a date with them in exchange for a good grade. This constitutes sexual harassment regardless of whether the student agrees to the request and irrespective of whether a good grade is promised or a bad grade is threatened.
- A student repeatedly sends graphic, sexually oriented jokes and to hundreds of other students via social media. Many don't find it funny and ask them to stop, but they do not. Because of these jokes, one student avoids the sender on campus and in the residence hall in which they both live, eventually asking to move to a different building and dropping a class they had together.
- A professor engages students in class in discussions about the students' past sexual experiences, yet the conversations are not in any way germane to the subject matter of the class. The professor inquires about explicit details and demands that students answer them, though the students are clearly uncomfortable and hesitant.
- An ex-partner widely spreads false stories about their sex life with their former partner to the clear discomfort and frustration of the former partner, turning the former partner into a social pariah on campus.
- Chris has recently transitioned from male to nonbinary, but primarily expresses as a female. Since their transition, Chris has noticed that their African Studies professor, Dr. Mukembo, pays them a lot more attention. Chris is sexually attracted to Professor Mukembo and believes the attraction is mutual. Chris decides to act on the attraction. One day, Chris visits Dr. Mukembo during office hours, and after a long conversation about being nonbinary, Chris kisses Dr. Mukembo. Dr. Mukembo is taken aback, stops the kiss, and tells Chris not to do that. Dr. Mukembo explains to Chris that they are not sexually or romantically interested in Chris. Chris takes it hard, crying to Dr. Mukembo about how hard it is to find someone who is interested in them now based on their gender identity. Dr. Mukembo feels sorry for Chris and softens the blow by telling them that no matter whether they like Chris or not, faculty-student relationships are prohibited by the university. Chris takes this as encouragement. One night, Chris goes to a gay bar some distance from campus and sees Dr. Mukembo at the bar. Chris tries to buy Dr. Mukembo a drink and, again, tries to kiss Dr. Mukembo. Dr. Mukembo leaves the bar abruptly. The next day, Chris makes several online posts that out Dr. Mukembo as gay and raise questions about whether they are sexually involved with students. Dr. Mukembo contacts the Title IX Office and alleges that Chris is sexually harassing him.

### Examples of Stalking

- Students A and B were "friends with benefits." Student A wanted a more serious relationship, which caused student B to end the relationship. Student A could not let go, and relentlessly pursued student B. Student B obtained a campus no-contact order. Subsequently, Student B discovered their social media accounts were being accessed, and things were being posted and messaged as if they were from them, but they were not. Whoever accessed their account posted a picture of a penis, making it look as if they had sent out a picture of themselves, though it was not their penis. This caused them considerable embarrassment and social anxiety. They changed their passwords, only to have it happen again. Seeking help from the Title IX Coordinator, Student B met with the IT department, which discovered an app on their phone and a keystroke recorder on their laptop, both of which were being used to transmit their data to a third party.

- A graduate student working as an on-campus tutor received flowers and gifts delivered to their office. After learning the gifts were from a student they recently tutored, the graduate student thanked the student and stated that it was not necessary and would appreciate it if the gift deliveries stopped. The student then started leaving notes of love and gratitude on the tutor's car, both on-campus and at home. Asked again to stop, the student stated by email, "You can ask me to stop, but I'm not giving up. We are meant to be together, and I'll do anything to make you have the feelings for me that I have for you." When the tutor did not respond, the student emailed again, "You cannot escape me. I will track you to the ends of the earth. If I can't have you, no one will."

### **Examples of Sexual Assault:**

- Amanda and Bill meet at a party. They spend the evening dancing and getting to know each other. Bill convinces Amanda to come up to his room. From 11:00 p.m. until 3:00 a.m., Bill uses every line he can think of to convince Amanda to have sex with him, but she adamantly refuses. Despite her clear communications that she is not interested in doing anything sexual with him, Bill keeps at her, questions her religious convictions, and accuses her of being "a prude." He brings up several rumors that he has heard about how she performed oral sex on a number of other guys. Finally, it seems to Bill that her resolve is weakening, and he convinces her to "jerk him off" (hand to genital contact). Amanda would have never done it but for Bill's incessant coercion.
- Jiang is a junior. Beth is a sophomore. Jiang comes to Beth's residence hall room with some mutual friends to watch a movie. Jiang and Beth, who have never met before, are attracted to each other. After the movie, everyone leaves, and Jiang and Beth are alone. They hit it off, soon become more intimate, and start to make out. Jiang verbally expresses his desire to have sex with Beth. Beth, who was abused by a babysitter at the age of five and avoids sexual relations as a result, is shocked at how quickly things are progressing. As Jiang takes her by the wrist over to the bed, lays her down, undresses, and begins to have intercourse with Beth, Beth has a severe flashback to her childhood trauma. She wants to tell Jiang to stop but cannot. Beth is stiff and unresponsive during the intercourse.
- Kevin and John are at a party. Kevin is not sure how much John has been drinking, but he is pretty sure it's a lot. After the party, he walks John to his apartment, and John comes on to Kevin, initiating sexual activity. Kevin asks John if he is really up to this, and John says yes. They remove each other's clothes, and they end up in John's bed. Suddenly, John runs for the bathroom. When he returns, his face is pale, and Kevin thinks he may have thrown up. John gets back into bed, and they begin to have sexual intercourse. Kevin is having a good time, though he can't help but notice that John seems pretty groggy and passive, and he thinks John may have even passed out briefly during sex, but he came to again. When Kevin runs into John the next day, he thanks him for the great night. John remembers nothing and decides to make a report to the Dean.

### **Examples of Retaliation:**

- A student-athlete alleges sexual harassment by a coach; the coach subsequently cuts the student-athlete's playing time without a legitimate justification.
- A faculty member alleges gender inequity in pay within her department; the Department Chair then revokes approval for her to attend a national conference, citing the faculty member's tendency to "ruffle feathers."
- A student from Organization A participates in a sexual harassment investigation as a witness whose testimony is damaging to the Respondent, who is also a member of Organization A; the student is subsequently removed as a member of Organization A because of their participation in the investigation.

## APPENDIX C: Informal Resolution (IR)

The Informal Resolution (IR) process is a voluntary, structured interaction between involved parties (Complainant and Respondent) to resolve the allegations following the filing of a Formal Complaint and prior to a formal hearing on the allegations. The Informal Resolution process is intended to be flexible while also providing for a full range of possible outcomes. Informal Resolution can be pursued for any behavior that falls within the policy on Equal Opportunity, Harassment and Nondiscrimination, at any time during the process. This option may be used when:

- a responding party admits responsibility for all or part of the alleged policy violations at any point in the process
- the investigation reaches a finding that the parties accept
- both parties elect to resolve the allegation using the Informal Resolution process and the Title IX Coordinator or Human Resources Director, when appropriate, assents
- the Title IX Coordinator and the Human Resources Director implements the results of an investigation for an at-will employee
- deployed after formal resolution, as an adjunct healing/catharsis opportunity (that could potentially mitigate sanctions or be a form of sanction)

This option may not be appropriate (at the discretion of the Title IX Coordinator or the Human Resources Director) when:

- Complaints involve violent incidents (sexual violence, stalking, domestic and dating violence, severe sexual harassment, sexual exploitation, etc.); the preferred alternative approach typically involves a minimal number of essential parties and is not a wide restorative circle approach to ensure confidentiality
- situations involve dangerous patterns or significant ongoing threat to the community

During the Informal Resolution, all parties have the right to be present, including presence via remote technology, during all testimony given and evidence presented during any formal grievance hearing.

Alternate Resolution approaches to Informal Resolution must be facilitated by South Plains College or a third-party. Clearly agreed-upon ground rules, which the parties must sign in advance and agree to abide by, will be determined in conjunction with the investigator(s) and the Title IX Coordinator or the Human Resources Director, otherwise the informal resolution process will be deemed to have failed.

In Informal Resolution, the investigator has the authority to address all collateral misconduct, meaning that they hear all allegations of discrimination, harassment and retaliation, but also may address any additional alleged policy violations that have occurred in concert with the discrimination, harassment or retaliation, even though those collateral allegations may not specifically fall within the policy on Equal Opportunity, Harassment and Nondiscrimination. Accordingly, investigations should be conducted with as wide a scope as necessary.

Any evidence that the investigator believes is relevant and credible may be considered, including history and pattern evidence. The investigator may exclude irrelevant or immaterial evidence and may choose to disregard evidence lacking in credibility or that is improperly prejudicial.

Unless the investigator determines it is appropriate, the investigation and the finding will not consider: (1) incidents not directly related to the possible violation, unless they show a pattern, (2) the sexual history of the reporting party (though there may be a limited exception made in regard to the sexual history between the parties), (3) or the character of the reporting party. While previous conduct violations by the responding party are not generally admissible as information about the present allegation, the investigators may consider

information about previous good faith allegations and/or findings to consider as evidence of pattern and/or predatory conduct.

The investigator(s) will not meet with character witnesses, but investigators will accept up to two (2) letters supporting the character of each of the parties.

The investigator(s) will base the determination(s) on the preponderance of the evidence, whether it is more likely than not that the responding party violated policy.

The following are the parameters by which an informal resolution may be conducted.

1. The Title IX Coordinator may offer the parties the opportunity to become involved in an informal resolution process. Likewise, either party (Complainant or Respondent) may petition the Title IX Coordinator or Human Resources Director in writing to offer an informal resolution process to the other party. The Title IX Coordinator (for Complaints involving students) or the Human Resources Director (for Complaints involving only employees) is the sole administrator who determines if an Informal Resolution (hereafter IR) is appropriate given the allegations.
2. The Title IX Coordinator, Human Resources Director, and/or the coordinator's trained designee (hereafter facilitator) will supervise the informal resolution process. The facilitator will work with both parties to reach a negotiated resolution.
3. The IR will be voluntary for both parties and each party must submit a written request to become involved in the IR. An informal resolution cannot be offered if the Complainant is a student, and the respondent is an employee.
4. The IR will not require the parties to confront each other or even be present in the same room.
5. The parties may consult their Case advisor or have their Case advisor present at any time an IR meeting occurs.
6. Either party may withdraw, without penalty, from the IR up until a written resolution agreement is signed by both parties. If either party withdraws from the IR, the formal grievance process will resume.
7. A signed resolution agreement is binding on both parties.
8. The facilitator(s) has the authority to end the resolution process if the facilitator(s) believes that one or both parties are not operating in good faith. If this happens, the formal grievance process will resume.
9. Both parties and the facilitator (s) will have an opportunity to offer proposals to become a part of the final outcome(s)/agreement. An IR agreement may include, but is not limited to, an admission of responsibility, an admission of false allegations, disciplinary/punitive sanctions, counseling, and involvement in an educational program.
10. The Facilitator(s) and both parties must all agree to the outcome(s) of the IR. In doing so the facilitator will write a binding agreement based upon the parties verbal agreement with the negotiated outcome(s). Separately, both parties will then be offered the opportunity to sign this IR agreement. If either party refuses to sign this agreement, the IR will be considered failed and the grievance process will resume.

## **Employee as Respondent**

At any point during the Informal Resolution process, including at its conclusion, either party may request that the matter be referred to the Formal Resolution Process for presentation before a hearing panel, except in Complaints where the Respondent is an at-will employee.

If either party rejects the sanction/responsive action, a formal hearing will be held on the sanction/responsive action only, according to the Formal Resolution procedures. No evidence elicited within the “safe space” of the informal resolution facilitation is later admissible in the formal resolution unless all parties consent.

If the Respondent admits to the violation(s) a sanctioning body will convene comprised of the following:

1. Supervisor for the responding party or designee
2. Vice president of the responding party’s or designee
3. Director of Human Resources or designee

The sanctioning body will determine an appropriate sanction or responsive action based on College policy. If the sanction/responsive action is accepted by both the reporting party and responding party, the Title IX Coordinator in conjunction with the Human Resources Director will implement the finding and sanction, and act promptly and effectively to stop the harassment or discrimination, prevent its recurrence and remedy the effects of the discriminatory conduct. No appeal is permitted.

## **Student as Respondent**

If the Respondent admits to the violation(s) the Dean of Students will determine an appropriate sanction or responsive action. If the sanction/responsive action is accepted by both the Complainant and Respondent, the Title IX Coordinator in conjunction with the Dean of Students will implement the finding and sanction, and act promptly and effectively to stop the harassment or discrimination, prevent its recurrence and remedy the effects of the discriminatory conduct. No appeal is permitted.

If either party rejects the sanction/responsive action, a formal hearing will be held on the sanction/responsive action only, according to the Formal Resolution procedures. No evidence elicited within the “safe space” of the informal resolution facilitation is later admissible in the formal resolution unless all parties consent.

If alleged misconduct is resolved at this stage, the Title IX Coordinator will inform the parties of the final determination within three (3) days of the resolution, without significant time delay between notifications. Notification will be made in writing and may be delivered by one or more of the following methods: in person; mailed to the local or permanent address of the parties as indicated in official College records; or emailed to the parties’ South Plains College-issued email account. Once mailed, emailed and/or received in-person, notice will be presumptively delivered. The notification of outcome will specify the finding on each alleged policy violation, any sanctions that may result which the College is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent the College is permitted to share under state or federal law. The notice will also include information on when the results are considered by the College to be final and any changes that occur prior to finalization. Because the alleged misconduct is resolved at this stage, the decision is final and appeals options are not available.

At any point during the Informal Resolution process, including at its conclusion, either party may request that the matter be referred to the Formal Resolution Process for presentation before a hearing panel, except in Complaints where the Respondent is an at-will employee.

In Complaints involving at-will employees, all findings and responsive actions will be determined by the Human Resources Director in collaboration with the Title IX Coordinator, based on the results of the investigation.

## APPENDIX D: Statement of Rights of the Parties

### Rights of the Parties Under South Plains College Policy FH:

- The right to an equitable investigation and resolution of all credible allegations of prohibited harassment or discrimination made in good faith to South Plains College officials.
- The right to timely written notice of all alleged violations, including the identity of the parties involved (if known), the precise misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated policies and procedures, and possible sanctions.
- The right to timely written notice of any material adjustments to the allegations (e.g., additional incidents or allegations, additional Complainants, unsubstantiated allegations) and any attendant adjustments needed to clarify potentially implicated policy violations.
- The right to be informed in advance of any public release of information regarding the allegation(s) or underlying incident(s), whenever possible.
- The right not to have any personally identifiable information released by South Plains College to the public without consent provided, except to the extent permitted by law.
- The right to be treated with respect by South Plains College officials.
- The right to have South Plains College policies and these procedures followed without material deviation.
- The right not to be pressured to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence.
- The right not to be discouraged by South Plains College officials from reporting sexual harassment, discrimination, and/or retaliation to both on-campus and off-campus authorities.
- The right to be informed by South Plains College officials of options to notify proper law enforcement authorities, including on-campus and local police, and the option(s) to be assisted by SPC authorities in notifying such authorities, if the party so chooses. This also includes the right not to be pressured to report, as well.
- The right to have allegations of violations of this Policy responded to promptly and with sensitivity by South Plains College law enforcement and/or other SPC officials.
- The right to be informed of available supportive measures, such as counseling; advocacy; health care; employee assistance services; student financial aid, visa, and immigration assistance; or other services, both on campus and in the community.
- The right to a South Plains College-implemented no-contact order or a no-trespass order against a non-affiliated third party when a person has engaged in or threatens to engage in stalking, threatening, harassing, or other improper conduct.
- The right to be informed of available assistance in changing academic, living, and/or working situations after an alleged incident of discrimination, harassment, and/or retaliation, if such changes are reasonably available. No formal report, or investigation, either institutional or criminal, needs to occur before this option is available. Such actions may include, but are not limited to:

- Relocating an on-campus student's housing to a different on-campus location
  - Assistance from South Plains College staff in completing the relocation
  - Changing an employee's work environment (e.g., reporting structure, office/workspace relocation)
  - Transportation assistance
  - Visa/immigration assistance
  - Arranging to dissolve a housing contract and a pro-rated refund
  - Exam, paper, and/or assignment rescheduling or adjustment
  - Receiving an incomplete in, or a withdrawal from, a class (may be retroactive)
  - Transferring class sections
  - Temporary withdrawal/leave of absence (may be retroactive)
  - Campus safety escorts
  - Alternative course completion options.
- The right to have South Plains College maintain such actions for as long as necessary and for supportive measures to remain confidential, provided confidentiality does not impair South Plains College's ability to provide the supportive measures.
  - The right to receive sufficiently advanced, written notice of any South Plains College meeting or interview involving the other party, when possible.
  - The right to identify and have the Investigator(s), Case Advisors, and/or Decision-maker(s) question relevant available witnesses, including expert witnesses.
  - The right to provide the Investigator(s)/Decision-maker(s) with a list of questions that, if deemed relevant by the Investigator(s)/Decision-maker(s), may be asked of any party or witness.
  - The right not to have irrelevant sexual predisposition/prior sexual history or irrelevant character evidence excluded by the Decision-maker(s).
  - The right to know the relevant and directly related evidence obtained and to respond to that evidence.
  - The right to fair opportunity to provide the Investigator(s) with their account of the alleged misconduct and have that account be on the record.

The right to receive a copy of all relevant and directly related evidence obtained during the investigation, subject to privacy limitations imposed by state and federal law, and a ten (10) business day period to review and comment on the evidence.

- The right to receive a copy of the final investigation report, including all factual, policy, and/or credibility analyses performed, and to have at least ten (10) business days to review and comment on the report prior to the hearing.
- The right to be informed of the names of all witnesses whose information will be used to make a finding, in advance of that finding, when relevant.
- The right to regular updates on the status of the investigation and/or resolution.
- The right to have reports of alleged Policy violations addressed by Investigators, Title IX Coordinators, and Decision-maker(s) who have received relevant annual training.
- The right to a Hearing Panel that is not single sex in its composition, if a panel is used.

- The right to preservation of confidentiality/privacy, to the extent possible and permitted by law.
- The right to meetings, interviews, and/or hearings that are closed to the public.
- The right to petition that any South Plains College representative in the process be recused on the basis of disqualifying bias and/or conflict of interest.
- The right to have a Case Advisor of their choice to accompany and assist the party in all meetings and/or interviews associated with the Resolution Process.
- The right to the use of the appropriate standard of evidence, preponderance of the evidence, to make a Finding and Final Determination after an objective evaluation of all relevant evidence.
- The right to be present, including presence via remote technology, during all testimony given and evidence presented during any hearing.
- The right to have an impact and/or mitigation statement considered by the Decision-maker(s) following a determination of responsibility for any allegation, but prior to sanctioning.
- The right to be promptly informed of the finding(s) and any sanction(s) of the Resolution Process and a detailed rationale of the decision (including an explanation of how credibility was assessed) in a written Notice of Outcome Letter delivered simultaneously (without undue delay) to the parties.
- The right to be informed in writing of when a decision by South Plains College is considered final and any changes to the Final Determination or sanction(s) that occur post Notification of Outcome.
- The right to be informed of the opportunity to appeal the finding(s) and sanction(s) of the Resolution Process, and the procedures for doing so in accordance with the standards for appeal established by South Plains College.
- The right to a fundamentally fair resolution as defined in these procedures.

## APPENDIX E: Violence Risk Assessment (VRA)

Threat assessment is the process of assessing the actionability of violence by an individual against another person or group following the issuance of a direct or conditional threat. A **Violence Risk Assessment (VRA)** is a broader term used to assess any potential violence or danger, regardless of the presence of a vague, conditional, or direct threat.

The implementation of VRAs require specific training and are typically conducted by psychologists, clinical counselors, social workers, case managers, law enforcement officers, student conduct officers, and/or other CARE team members.

A VRA occurs in collaboration with the CARE team and must be understood as an ongoing process, rather than a singular evaluation or meeting. A VRA is not an evaluation for an involuntary behavioral health hospitalization, nor is it a psychological or mental health assessment.

A VRA assesses the risk of actionable violence, often with a focus on targeted/predatory escalations, and is supported by research from the fields of law enforcement, criminology, human resources, and psychology.

When conducting a VRA, the assessor(s) use an evidence-based process consisting of:

- 1) an appraisal of **risk factors** that escalate the potential for violence
- 2) a determination of **stabilizing influences** that reduce the risk of violence
- 3) a contextual **analysis of violence risk** by considering environmental circumstances, hopelessness, and suicidality; catalyst events; nature and actionability of threat; fixation and focus on target; grievance collection; and action and time imperative for violence
- 4) the application of **intervention and management** approaches to reduce the risk of violence

To assess an individual's level of violence risk, the Title IX Coordinator will initiate the violence risk assessment process through the CARE team. The CARE team will assign a trained individual(s) to perform the assessment, according to the specific nature of the Title IX Complaint.

The assessor will follow the process for conducting a violence risk assessment as followed by the Student Health and Wellness Center and shared with the CARE Team and will rely on a consistent, research-based, reliable system that allows the for the operationalization of the risk levels.

Formalized approaches approved by South Plains College for the VRA process include: The NABITA Risk Rubric,<sup>45</sup> The Structured Interview for Violence Risk Assessment (SIVRA-35),<sup>46</sup> Violence Risk Assessment of the Written Word (VRAWW)<sup>47</sup>, Workplace Assessment of Violence Risk (WAVR-21),<sup>50</sup> Historical Clinical Risk Management (HCR-20),<sup>51</sup> and MOSAIC.<sup>52</sup>

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<sup>45</sup> [www.nabita.org/tools](http://www.nabita.org/tools)

<sup>46</sup> [www.nabita.org/resources/assessment-tools/sivra-35/](http://www.nabita.org/resources/assessment-tools/sivra-35/)

<sup>47</sup> [www.nabita.org/resources/vraww/](http://www.nabita.org/resources/vraww/)

<sup>50</sup> [www.wavr21.com](http://www.wavr21.com)

<sup>51</sup> [hcr-20.com](http://hcr-20.com)

<sup>52</sup> [www.mosaicmethod.com](http://www.mosaicmethod.com)

The VRA is conducted independently from the Title IX process, is informed by it, but free from outcome pressure. The individual(s) conducting the assessment will be trained to mitigate any bias and provide the analysis and findings in a fair and equitable manner.

The CARE team's member(s) conducts a VRA process and makes a recommendation to the Title IX Coordinator (for all Complaints involving students) or Human Resources Director (for Complaints involving only employees) as to whether the VRA indicates there is a substantial, compelling, and/or immediate risk to health and/or safety of an individual or the community.

## APPENDIX F: Resolution Process B

- Process B is applicable when the Title IX Coordinator determines Process A is inapplicable, or offenses subject to Process A have been dismissed.
- If Process A is applicable, Process A must be applied in lieu of Process B.

### RESOLUTION PROCESS FOR ALLEGED VIOLATIONS OF THE EQUAL OPPORTUNITY, HARASSMENT, AND NONDISCRIMINATION POLICY PROCESS B

South Plains College will act on any formal or informal allegation or notice of violation of the Equal Opportunity, Harassment and Nondiscrimination Policy that is received by the Title IX Coordinator<sup>53</sup>, Human Resources Director, or a member of the administration, faculty, or other employee, with the exception of confidential resources, as articulated in the Policy above.

The procedures described below apply to all allegations of harassment or discrimination on the basis of protected characteristic status involving students, staff, faculty members, or third parties, with the exception of at-will employees.

These procedures may also be used to address collateral misconduct arising from the investigation of or occurring in conjunction with harassing or discriminatory conduct (e.g., vandalism, physical abuse of another). All other allegations of misconduct unrelated to incidents covered by this Policy will be addressed through the procedures elaborated in the respective student, faculty, and staff handbooks.

#### 1. Initial Assessment

Following intake, receipt of notice, or a complaint of an alleged violation of South Plains College's nondiscrimination Policy, the Title IX Coordinator or the Human Resources Director<sup>54</sup> engages in an initial assessment, which is typically one to five (1 to 5) business days in duration. The steps in an initial assessment can include:

- The Title IX Coordinator (for Complaints involving students) or the Human Resources Director (for Complaints involving only employees) reaches out to the Complainant to offer supportive measures.
- The Title IX Coordinator or Human Resources Director works with the Complainant to ensure they have a Case Advisor.
- The Title IX Coordinator or Human Resources Director works with the Complainant to determine which of three options to pursue: A Supportive Response, an Informal Resolution, or an Administrative Resolution.
  - If a Supportive Response is preferred, the Title IX Coordinator or Human Resource Director works with the Complainant to identify their wishes and then seeks to facilitate implementation. The Administrative Resolution process is not initiated, though the Complainant can elect to initiate it later, if desired.
  - If an Informal Resolution option is preferred, the Title IX Coordinator or Human Resource Director assesses whether the complaint is suitable for Informal Resolution, which informal

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<sup>53</sup> All references herein to a Title IX Coordinator also include a designee of the Title IX Coordinator.

<sup>54</sup> If circumstances require, the President or Title IX Coordinator will designate another person to oversee the process below should an allegation be made about the Coordinator or the Coordinator be otherwise unavailable or unable to fulfill their duties.

mechanism may serve the situation best or is available and may seek to determine if the Respondent is also willing to engage in Informal Resolution.

- If Administrative Resolution is preferred, the Title IX Coordinator or Human Resources Director initiates the investigation process and determines whether the scope of the investigation will address:
  - Incident
  - A potential pattern of misconduct
  - A culture/climate issue<sup>55</sup>
- In many Complaints, the Title IX Coordinator or Human Resources Director may determine that a Violence Risk Assessment (VRA) should be conducted by the CARE team as part of the initial assessment. A VRA can aid in ten critical and/or required determinations, including:
  - Interim suspension of a Respondent who is a threat to health/safety
  - Whether the Title IX Coordinator or Human Resources Director should pursue Administrative Resolution absent a willing/able Complainant
  - Whether to put the investigation on the footing of incident and/or pattern and/or climate
  - To help identify potentially predatory conduct
  - To help assess/identify grooming behaviors
  - Whether a Complaint is amenable to Informal Resolution, and what modality may be most successful
  - Whether to permit a voluntary withdrawal by the Respondent
  - Whether to impose transcript notation or communicate with a transfer recipient institution about a Respondent
  - Assessment of appropriate sanctions/remedies
  - Whether a Clery Act Timely Warning and/or Trespass order/Persona-non-grata is needed

More about South Plains College's process for violence risk assessment (VRA) can be found in [Appendix D](#).

Based on the initial assessment, South Plains College will initiate one of two responses:

- Supportive Response – measures to help restore the Complainant's education access, and described in the Policy.
- Informal Resolution – typically used for less serious offenses and only when all parties agree to Alternate Resolution, or when the Respondent is willing to accept responsibility for violating policy. This can also include a remedies-only response.
- Administrative Resolution – investigation of alleged policy violation(s) and recommended finding, subject to a determination by the Title IX Coordinator, Human Resources Director or Decision-maker and the opportunity to appeal.

The investigation and the subsequent Administrative Resolution determine whether the Equal Opportunity, Harassment, and Nondiscrimination Policy has been violated. If so, South Plains College will promptly implement effective remedies designed to end the discrimination, prevent recurrence, and address the effects.

The process followed considers the preference of the parties but is ultimately determined at the discretion of

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<sup>55</sup> The Title IX Coordinator has the discretion to modify these procedures as necessary to address a culture/climate complaint, including the fact that a named complainant may not be available, or that specific respondents may not be identified. Where a program, department, or division is being investigated, administrators are typically named "respondents" on behalf of the program, and are responsible for implementing remedies, but may not be held responsible for misconduct unless there is evidence of intentional disparate treatment).

the Title IX Coordinator or Human Resources Director. If at any point during the initial assessment or formal investigation the Title IX Coordinator or Human Resources Director determines that reasonable cause does not support the conclusion that policy has been violated, the process will end, and the parties will be notified.

The Complainant may request that the Title IX Coordinator or Human Resources Director review the reasonable cause determination and/or re-open the investigation. This decision lies in the sole discretion of the Title IX Coordinator, but the request is usually only granted in extraordinary circumstances.

## 2. Resolution Process Pool

The Resolution Process relies on a pool of officials (“Pool”) to carry out the process. Members of the Pool are announced in an annual distribution of this Policy to all students, employees, prospective students, and prospective employees.

The list of members and a description of the Pool can be found at <http://www.southplainscollege.edu/about/campusafety/sah.php>. Members of the Pool are trained annually in all aspects of the Resolution Process and can serve in any of the following roles, at the direction of the Title IX Coordinator in collaboration with the Human Resources Director:

- To provide sensitive intake for and initial advice pertaining to the allegations
- To act as optional process Case Advisors to the parties
- To investigate allegations
- To serve as a Decision-maker
- To serve on an Appeal Decision-maker

The Title IX Coordinator and Human Resources Director, in consultation with the President, carefully vets Pool members for potential conflicts of interest or disqualifying biases and appoints the Pool, which acts with independence and impartiality.

Pool members receive annual training organized by the Title IX Coordinator, including a review of South Plains College policies and procedures as well as applicable federal and state laws and regulations so that they are able to appropriately address allegations, provide accurate information to members of the community, protect safety, and promote accountability.

The Pool members receive annual training specific to their role(s). This training includes, but is not limited to:

- The scope of South Plains College’s Equal Opportunity, Harassment, and Nondiscrimination Policy and Procedures
- How to conduct investigations and hearings that protect the safety of Complainants and Respondents and promote accountability
- Implicit bias
- Disparate treatment
- Reporting, confidentiality, and privacy requirements
- Applicable laws, regulations, and federal regulatory guidance
- How to implement appropriate and situation-specific remedies
- How to investigate in a thorough, reliable, timely, and impartial manner
- How to conduct a sexual harassment investigation
- Trauma-informed practices pertaining to investigations and Resolution Processes
- How to uphold fairness, equity, and due process
- How to weigh evidence
- How to conduct questioning
- How to assess credibility

- Impartiality and objectivity
- Types of evidence
- Deliberation
- How to render findings and generate clear, concise, evidence-based rationales
- The definitions of all offenses
- How to apply definitions used by South Plains College with respect to consent (or the absence or negation of consent) consistently, impartially, and in accordance with Policy
- How to conduct an investigation and grievance process including hearings, appeals, and Informal Formal resolution Processes
- How to serve impartially, by avoiding prejudgment of the facts at issue, conflicts of interest, and bias against Respondents and/or for Complainants, and on the basis of sex, race, religion, and other protected characteristics
- Any technology to be used
- Issues of relevance of questions and evidence
- Issues of relevance to create an investigation report that fairly summarizes relevant evidence
- How to determine appropriate sanctions in reference to all forms of harassment and discrimination allegations

Specific training is also provided for Appeal Decision-makers, intake personnel, and Case Advisors. All Pool members are required to attend this annual training.

At a minimum, the Pool will include the following number and types of employees:

- 4 or more chairs: one representative from HR and one from Student Affairs, etc., who are members and who respectively Chair hearings for allegations involving student and employee Respondents. These include then Dean of Students, Human Resource Director, Dean of the Lubbock Downtown Center, Executive Director of the Lubbock Center, Director of the Reese Center, and the Director of the Plainview Center.
- 3 or more members of the Academic Affairs administration and/or faculty
- 3 or more members of the administration/professional staff
- 1 representative from Campus Police Department
- 1 representative from Athletics

Pool members are usually appointed to three-year terms. Individuals who are interested in serving in the Pool are encouraged to contact the Title IX Coordinator.

### **3. Counterclaims**

Counterclaims by the Respondent may be made in good faith or may instead be motivated by a retaliatory intent. South Plains College is obligated to ensure that any process is not abused for retaliatory purposes.

The College permits the filing of counterclaims, but uses the initial assessment, described above, to assess whether the allegations are made in good faith. If they are, the allegations will be processed using the resolution procedures below, typically after resolution of the underlying allegation. Counterclaims made with retaliatory intent will not be permitted.

A delay in the processing of counterclaims is permitted, accordingly. Occasionally, allegations and counterclaims can be resolved through the same investigation, at the discretion of the Title IX Coordinator (for Complaints involving students) or Human Resources Director (for Complaints involving only employees).

When counterclaims are not made in good faith, they will be considered retaliatory, and may constitute a violation of this Policy.

#### **4. Case Advisors**

##### **A. Case Advisor Expectations**

South Plains College generally expects a Case Advisor to adjust their schedule to allow them to attend SPC meetings when planned, but SPC may change scheduled meetings to accommodate a Case Advisor's inability to attend, if doing so does not cause an unreasonable delay.

South Plains College may also make reasonable provisions to allow a Case Advisor who cannot attend in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.

Parties whose Case Advisors are disruptive or who do not abide by SPC policies and procedures may face the loss of that Case Advisor and/or possible Policy violations.

Case Advisors are expected to consult with their advisees without disrupting SPC meetings or interviews. Case Advisors do not represent parties in the process; their role is only to advise.

##### **B. Expectations of the Parties with Respect to Case Advisors**

Each party may choose a Case Advisor<sup>56</sup> who is eligible and available<sup>57</sup> to accompany them throughout the process. The Case Advisor can be anyone, including an attorney, but should not be someone who is also a witness in the process. A party may elect to change Case Advisors during the process and is not obligated to use the same Case Advisor throughout.

The parties are expected to inform the Investigators of the identity of their Case Advisor at least two (2) business days before the date of their first meeting with the Investigator(s) (or as soon as possible if a more expeditious meeting is necessary or desired).

The parties are expected to provide timely notice to the Investigator(s) and/or the Title IX Coordinator (for Complaints involving students) or the Human Resources Director (for Complaints involving only employees) if they change Case Advisors at any time.

Upon written request of a party, South Plains College will copy the Case Advisor on all communications between South Plains College and the party. The Case Advisor may be asked to sign a non-disclosure agreement (NDA) regarding private, sensitive records.

At the discretion of the Title IX Coordinator or Human Resources Director, more than one Case Advisor may be permitted to the parties, upon request. For equity purposes, if one party is allowed another Case Advisor, the other party must be allowed one to as well.

##### **C. Assistance in Securing a Case Advisor**

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<sup>56</sup> This could include an attorney, advocate, or support person. Witnesses are not entitled to Case Advisors within the process, though they can be advised externally. If South Plains College allows more than one Case Advisor for one party, they should do so for all parties.

<sup>57</sup> "Available" means the party cannot insist on a Case Advisor who simply doesn't have inclination, time, or availability. Also, the Case Advisor cannot have institutionally conflicting roles, such as being a Title IX administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions.

South Plains College maintains a listing of local attorneys who may offer discounted or pro bono services. The list is available from the Department of Health and Wellness. The list of attorneys and the following links are provided for informational purposes and do not constitute South Plains College's endorsement of any of the external individuals/organizations listed.

For representation, Respondents may wish to contact organizations such as:

- Families Advocating for Campus Equality (FACE) (<http://www.facecampusequality.org>)
- Stop Abusive and Violent Environments (SAVE) (<http://www.saveservices.org>).

Complainants may wish to contact organizations such as:

- The Victim Rights Law Center (<http://www.victimrights.org>),
- The National Center for Victims of Crime (<http://www.victimsofcrime.org>), which maintains the Crime Victim's Bar Association.]
- The Time's Up Legal Defense Fund: <https://nwlc.org/times-up-legal-defense-fund/> ]

## 5. Resolution Options

Proceedings are private. All persons present at any time during the Resolution Process are expected to maintain the privacy of the proceedings in accord with SPC Policy.

While there is an expectation of privacy around what is discussed during interviews, the parties have discretion to share their own experiences with others if they so choose but are encouraged to discuss with their Advisors first before doing so.

### A. Informal Resolution

Informal Resolution is applicable when the parties voluntarily agree to resolve the matter through Alternate Resolution (mediation, restorative practices, etc.), or when the Respondent accepts responsibility for violating Policy, or when the Title IX Coordinator (for Complaints involving students) or the Human Resource Director (for Complaints involving only employees) can resolve the matter informally by providing remedies to resolve the situation. The Title IX Coordinator has discretion to determine if an investigation will be paused during Informal Resolution, or if it will be limited, or will continue during the Informal Resolution process.

It is not necessary to pursue Informal Resolution first in order to pursue Administrative Resolution, and any party participating in Informal Resolution can stop the process at any time and request the Administrative Resolution process. Further, if an Informal Resolution fails after the fact, Administrative Resolution may be pursued.

#### i. Alternate Resolution

Alternate Resolution is an informal process, such as mediation or restorative practices, by which the parties mutually agree to resolve an allegation. It may be used for less serious, yet inappropriate, behaviors and is encouraged as an alternative to the Administrative Resolution process (described below) to resolve conflicts, as appropriate. The parties must consent to the use of Alternate Resolution.

The Title IX Coordinator or Human Resources Director determines if Alternate Resolution is appropriate, based on the willingness of the parties, the nature of the conduct at issue, and the susceptibility of the conduct to Alternate Resolution.

In an Alternate Resolution, a trained administrator or third party facilitates communication among the parties to an effective resolution, if possible. Institutionally imposed sanctions are not possible

as the result of an Alternate Resolution process, though the parties may agree to accept sanctions and/or appropriate remedies.

The Title IX Coordinator or Human Resources Director maintains records of any resolution that is reached, and failure to abide by the resolution can result in appropriate enforcement actions.

Alternate Resolution is not typically the primary resolution mechanism used to address reports of violent behavior of any kind or in other cases of serious violations of policy, though similarly structured conversations may be made available after the Administrative Resolution process is completed should the parties and the Title IX Coordinator or Human Resources Director believe it could be beneficial. The results of Alternate Resolution are not appealable.

## **ii. Respondent Accepts Responsibility for Alleged Violations**

The Respondent may accept responsibility for all or part of the alleged policy violations at any point during the Resolution Process. If the Respondent accepts responsibility, the Title IX Coordinator or Human Resources Director determines that the individual is in violation of SPC Policy.

The Title IX Coordinator or Human Resources Director then determines appropriate sanction(s) or responsive actions, which are promptly implemented in order to effectively stop the harassment, discrimination, and/or retaliation; prevent its recurrence; and remedy the effects of the conduct, both on the Complainant and the community.

If the Respondent accepts responsibility for all of the alleged policy violations and the Title IX Coordinator, Human Resource Director or designee has determined appropriate sanction(s) or responsive actions, to which the Respondent agrees, and which are promptly implemented, the process is over. The Complainant will be informed of this outcome.

If the Respondent accepts responsibility for some of the alleged policy violations and the Title IX Coordinator or Human Resources Director has determined appropriate sanction(s) or responsive actions, to which the Respondent agrees, and which are promptly implemented, for those violations, then the remaining allegations will continue to be investigated and resolved through Administrative Resolution. The parties will be informed of this outcome. The parties are still able to seek Alternate Resolution on the remaining allegations, subject to the stipulations above.

## **B. Administrative Resolution via an Investigation and Hearing**

Administrative Resolution can be pursued any time during the process for any behavior for which the Respondent has not accepted responsibility that would constitute conduct covered by the Equal Opportunity, Harassment, and Nondiscrimination Policy of proven. Administrative Resolution starts with a thorough, reliable, and impartial investigation.

If Administrative Resolution is initiated, the Title IX Coordinator (for Complaints involving students) or the Human Resources Director (for Complaints involving only employees) will provide written notification of the investigation to the parties at an appropriate time during the investigation. Typically, notice is given at least 48 hours (two (2) business days) in advance of an interview. Advanced notice facilitates the parties' ability to identify and choose a Case Advisor, if any, to accompany them to the interview.

Notification will include a meaningful summary of the allegations, will be made in writing, and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official South Plains College records, or emailed to the parties' SPC-issued or designated email account.

Once mailed, emailed, and/or received in-person, notice will be presumptively delivered. The notification

will include the policies allegedly violated, if known at the time. Alternatively, the policies allegedly violated can be provided at a later date, in writing, as the investigation progresses, and details become clearer.

South Plains College aims to complete all investigations within a sixty (60) business day time period, which can be extended as necessary for appropriate cause by the Title IX Coordinator or Director of Human Resources, with notice to the parties as appropriate. Investigations can take weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc.

Once the decision is made to commence an investigation, the Title IX Coordinator or Human Resources Director appoints Pool members to conduct the investigation (typically using a team of two Investigators depending on the complexity of the Complaint), usually within two (2) business days of determining that an investigation should proceed.

The Title IX Coordinator or Human Resources Director will vet the assigned Investigator(s) to ensure impartiality by ensuring there are no conflicts of interest or disqualifying bias.

The parties may, at any time during the Resolution Process, raise a concern regarding bias or conflict of interest, and the Title IX Coordinator or Human Resources Director will determine whether the concern is reasonable and supportable. If so, another Investigator will be assigned and the impact of the bias or conflict, if any, will be remedied. If the bias or conflict relates to the Title IX Coordinator or the Human Resources Director, concerns should be raised with the College President.

South Plains College will make a good faith effort to complete the investigation as promptly as circumstances permit and will communicate regularly with the parties to update them on the progress and timing of the investigation.

South Plains College may undertake a short delay in its investigation (several days to weeks, to allow evidence collection) when criminal charges based on the same behaviors that invoke the College's Resolution Process are being investigated by law enforcement. The College will promptly resume its investigation and Resolution Process once notified by law enforcement that the initial evidence collection process is complete.

South Plains College action(s) are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

Investigations involve interviews with all relevant parties and witnesses, obtaining available, relevant evidence, and identifying sources of expert information, as necessary.

All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence, and to fully review and respond to all evidence, on the record.

## **6. Investigation**

The Investigators typically take the following steps, if not already completed (not necessarily in this order):

- Determine the identity and contact information of the Complainant

- In coordination with SPC partners (e.g., the Title IX Coordinator or Human Resources Director), initiate or assist with any necessary supportive measures
- Identify all policies implicated by the alleged misconduct
- Assist the Title IX Coordinator (for Complaints involving students) or Human Resources Director (for Complaints involving only employees) with conducting an initial assessment to determine if there is reasonable cause to believe the Respondent has violated policy
- If there is insufficient evidence to support reasonable cause, the process is closed with no further action
- Commence a thorough, reliable, and impartial investigation by developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for all parties and witnesses
- Meet with the Complainant to finalize their statement, if necessary
- Prepare the initial Notice of Investigation and Allegations (NOIA) on the basis of the initial assessment. Notice may be one step or multiple steps, depending on how the investigation unfolds, and potential policy violations may be added or dropped as more is learned. Investigators will update the NOIA accordingly and provide it to the parties.
- Notice should inform the parties of their right to have the assistance of a Pool member as a process Case Advisor appointed by South Plains College or a Case Advisor of their choosing present for all meetings attended by the advisee
- When formal notice is given, it should provide the parties with a written description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanctions/responsive actions that could result
- Give an instruction to the parties to preserve any evidence that is directly related to the allegations
- Provide the parties and witnesses with an opportunity to review and verify the Investigator's summary notes from interviews and meetings with that specific party or witness
- Make good faith efforts to notify each party of any meeting or interview involving another party, in advance when possible
- Interview all relevant individuals and conduct follow-up interviews as necessary
- Allow each party the opportunity to suggest questions they wish for the Investigator(s) to ask the other party and witnesses
- Complete the investigation promptly and without unreasonable deviation from the intended timeline
- Provide regular status updates to the parties throughout the investigation
- Prior to the conclusion of the investigation, summarize for the parties the list of witnesses whose information will be used to render a finding
- Write a comprehensive investigation report fully summarizing the investigation and all evidence
- Provide the parties with a copy of the draft investigation report when it is completed, including all relevant evidence, analysis, credibility assessments, and recommended finding(s)
- Provide each party with a full and fair opportunity to respond to the report in writing within 5 business days and incorporate that response into the report
- Investigators may choose to respond in writing in the report to the responses of the parties, and/or to share the responses between the parties for their responses, while also ensuring that they do not create a never-ending feedback loop
- Share the report with the Title IX Coordinator or Human Resources Director for review and feedback. Provide the final report to the Title IX Coordinator (for Complaints involving students) or Human Resources Director (for Complaints involving only employees). In the report, include a recommended determination, based on a preponderance of the evidence, whether a policy violation is more likely than not to have occurred.

## **7. Determination**

Within two to three (2-3) business days of receiving the Investigator’s recommendation, the Title IX Coordinator, Human Resource Director, or a trained, designated Decision-maker from the Pool<sup>58</sup> reviews the report and all responses, and then makes the final determination on the basis of the preponderance of the evidence.

If the record is incomplete, the Decision-maker, Title IX Coordinator (for Complaints involving students) or Human Resources Director (for Complaints involving only employees) may direct a re-opening of the investigation, or may direct or conduct any additional inquiry necessary, including informally meeting with the parties or any witnesses, if needed.

The investigation recommendation should be strongly considered but is not binding on the Decision-maker, Title IX Coordinator or Human Resources Director. The Title IX Coordinator, Human Resources Director or Decision-maker may invite and consider impact and/or mitigation statements from the parties if and when determining appropriate sanction(s), if any.

The Title IX Coordinator or Human Resources Director then timely provides the parties with a written Notice of Outcome to include findings, any sanction(s), and a detailed rationale, delivered simultaneously (without undue delay) to the parties

## **8. Additional Details of the Investigation Process**

### **A. Witness Responsibilities**

Witnesses (as distinguished from the parties) who are employees of South Plains College are expected to cooperate with and participate in SPC investigation and Resolution Process. Failure of a witness to cooperate with and/or participate in the investigation or Resolution Process constitutes a violation of Policy and may be subject to discipline.

### **B. Remote Processes**

Parties and witnesses may be interviewed remotely by phone, video conferencing, or similar technologies if the Investigator(s) or Decision-maker determine that timeliness or efficiency dictates a need for remote interviewing. Witnesses may also provide written statements in lieu of interviews, or respond to questions in writing, if deemed appropriate by the Investigator(s), though this approach is not ideal. Where remote technologies are used, South Plains College makes reasonable efforts to ensure privacy, and that any technology does not work to the detriment of any party or subject them to unfairness.

### **C. Recording**

No unauthorized audio or video recording of any kind is permitted during the resolution process including investigative interviews. If Investigator(s) elect to audio and/or video record interviews, all involved parties will be made aware of the audio and/or video recording. Texas has a “one-party consent” law that requires that only one party to the conversation consents to the recording.

### **D. Evidence**

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<sup>58</sup> When the Title IX Coordinator is the Investigator or has been heavily involved in the process prior to determination, a Decision-maker should be designated from the Pool to ensure there is no conflict of interest.

Any evidence that is relevant and credible may be considered, including an individual's prior misconduct history as well as evidence indicating a pattern of misconduct, subject to the limitation in (E) below. The process should exclude irrelevant or immaterial evidence and may disregard evidence lacking in credibility or that is improperly prejudicial.

#### **D. Prior Sexual History/Patterns**

Unless the Title IX Coordinator (for Complaints involving students) or Human Resources Director (for Complaints involving only employees)/Decision-maker(s) determines it is appropriate, the investigation and the finding do not consider: (1) incidents not directly related to the possible violation(s), unless they evidence a pattern; (2) the irrelevant sexual history of the parties (though there may be a limited exception made with regard to the sexual history between the parties); or (3) irrelevant character evidence.

#### **F. Previous Allegations/Violations**

While previous conduct violations by the Respondent are not generally admissible as information supporting the current allegation, the Investigator(s) may supply the Title IX Coordinator or Human Resources Director with information about previous good faith allegations and/or findings, when that information suggests potential pattern and/or predatory conduct.

Previous disciplinary action of any kind involving the Respondent may be considered in determining the appropriate sanction(s).

Character witnesses or evidence may be offered. The investigation and hearing will determine if the character evidence is relevant. If so, it may be considered. If not, it will be excluded.

#### **G. Notification of Outcome**

If the Respondent admits to the violation(s), or is found in violation, the Title IX Coordinator or Human Resources Director [in consultation with other administrators as appropriate] determines sanction(s) and/or responsive actions, which are promptly implemented in order to effectively to stop the harassment, discrimination, and/or retaliation; prevent its recurrence; and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

The Title IX Coordinator or Human Resources Director informs the parties of the determination within two to three (2-3) business days of the resolution, ideally simultaneously, but without significant time delay between notifications. Notifications are made in writing and may be delivered by one or more of the following methods: in person; mailed to the local or permanent address of the parties as indicated in official College records; or emailed to the parties' SPC-issued or designated email account. Once mailed, emailed, and/or received in-person, notice is presumptively delivered.

The Notification of Outcome specifies the finding for each alleged policy violation, any sanction(s) that may result which South Plains College is permitted to share pursuant to state or federal law, and the rationale supporting the essential findings to the extent the College is permitted to share under state or federal law.

The notice will detail when the determination is considered final (see Section 11) and will detail any changes that are made prior to finalization.

Unless based on an acceptance of violation by the Respondent, the determination may be appealed by either party. The Notification of Outcome also includes the grounds on which the parties may appeal and the steps the parties may take to request an appeal of the findings. More information about the appeal procedures can be found in Section 11.

## 9. Sanctions

Factors considered when determining any sanction(s)/responsive action(s) may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation
- An individual'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 Title IX Coordinator (for Complaints involving students) or Human Resources Director (for Complaints involving only employees)

The sanction(s) will be implemented as soon as is feasible. The sanctions described in this Policy are not exclusive of, and may be in addition to, other actions taken, or sanctions imposed by outside authorities.

### A. Student Sanctions

The following are the usual sanctions that may be imposed upon students singly or in combination.

Sanctions that require a transcript notation are in alignment with Texas Education Code 51.9364.:

- Warning or Reprimand – All offenses that may be punishable by reprimand or warning shall be regarded as minor offenses. These actions are cumulative and are considered official college actions and are recorded in the Office of the Dean of Students.
- Referral to Health & Wellness – Under certain situations, a student may be referred to Health and Wellness for counseling services. A set number of visits is established within a given amount of time. Failure to complete prescribed sessions will result in a hold being placed on the student's account for failure to comply. The hold may be lifted once the requirements for all sanctions have been fulfilled.
- Restriction – It may be determined that a student should be restricted from specified campus facilities, organizations or activities as a part of disciplinary action.
- Community Service - A student may be assigned to do additional class work or other community service jobs on campus, as determined by the Dean of Students, the Dean of the Reese Center, the Executive Director of the Lubbock Center, or the Director of the Plainview Center.
- Disciplinary Probation – Any offense leading to disciplinary probation is regarded as a major offense. Disciplinary probation is applied for a stated period with or without specified restrictive conditions. Restrictive conditions may include but are not limited to: removing the right of the student to receive any college award, scholarships, or financial aid; removing the right to occupy any position of leadership in any college or student organization or activity; removing the right to operate a motor vehicle on campus. The student is required to show appropriate changes in attitude and behavior during the probationary period.
- Disciplinary Suspension – Any offense leading to disciplinary suspension is regarded as a major offense. Suspension is normally for a stated period, but never less than the remainder of the semester in which the offense is committed. During the period of disciplinary suspension, the student's transcript will have a notation indicating "Disciplinary Suspension effective until MM/DD/YYYY." During suspension, the student shall not attend classes, participate in any college

related activity, or be on campus for any reason except application for readmission. Readmission on probation may be granted at the end of the suspension period.

- Expulsion – Expulsion is the permanent removal from South Plains College with no opportunity for readmission. Expulsion shall be used only in Complaints of extreme misconduct. The student’s transcript will have a notation of “Disciplinary Expulsion – MM/DD/YYYY.”
- Removal from College Housing – In certain instances, the Dean of Students or Associate Dean of Students may remove a student from college housing and allow him/her to continue attending classes.

## **B. Student Organization Sanction**

The following are the common sanctions that may be imposed upon student organizations singly or in combination:

- Warning: A formal statement that the conduct was unacceptable and a warning that further violation of any South Plains College policy, procedure, or directive will result in more severe sanctions/responsive actions.
- Probation: A written reprimand for violation of institutional policy, providing for more severe disciplinary sanctions in the event that the organization is found in violation of any institutional policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social and event privileges, denial of College funds, ineligibility for honors and awards, restrictions on new member recruitment, no-contact orders, and/or other measures deemed appropriate.
- Suspension: Termination of student organization recognition for a definite period of time not to exceed two years and/or until specific criteria are met. During the suspension period, a student organization may not conduct any formal or informal business or participate in College-related activities, whether they occur on or off-campus. Re-recognition is possible but not guaranteed and will only be considered after the end of the suspension period and based on meeting all re-recognition criteria and obtaining clearance from South Plains College.
- Expulsion: Permanent termination of student organization recognition and revocation of the privilege to congregate and conduct business on campus as an organization for any reason.
- Loss of Privileges: Restricted from accessing specific SPC privileges for a specified period of time.
- Other Actions: In addition to or in place of the above sanctions, the College may assign any other sanctions as deemed appropriate.

## **C. Employee Sanctions/Responsive Actions**

Responsive actions for an employee who has engaged in harassment, discrimination and/or retaliation include

- Warning – Verbal or Written
- Performance Improvement/Management Process
- Required Counseling
- Required Training or Education
- Probation
- 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, South Plains College may assign any other sanctions as deemed appropriate.

## 10. Withdrawal or Resignation While Charges are Pending

### A. Students:

South Plains College does not permit a student to withdraw if that student has an allegation pending for violation of the policy on Equal Opportunity, Harassment, and Nondiscrimination. South Plains College may place a hold, bar access to an official transcript, and/or prohibit graduation as necessary to permit the Resolution Process to be completed.

### B. Employees:

Should an employee resign with unresolved allegations pending, the records of the Human Resources Director will reflect that status, and any SPC responses to future inquiries regarding employment references for that individual will include the former employee's unresolved status and whether the employee is eligible for rehire.

## 11. Appeals

All requests for appeal consideration must be submitted in writing to the Title IX Coordinator (for Complaints involving students) or Human Resources Director (for Complaints involving only employees) within five (5) business days of the delivery of the written finding of the Title IX Coordinator, Human Resources Director or Decision-maker.

An Appeal Decision-maker chosen from the Pool will be designated by the Title IX Coordinator or Human Resources Director from those who have not been involved in the process previously. Any party may appeal, but appeals are limited to the following grounds:

- 1) A procedural error or omission occurred that significantly impacted the outcome (e.g., substantiated bias, material deviation from established procedures, failure to correctly apply the evidentiary standard).
- 2) To consider new evidence, unknown or unavailable during the investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included.
- 3) The sanctions imposed fall outside the range of sanctions South Plains College has designated for the violation(s) and the cumulative disciplinary record of the Respondent.

When any party requests an appeal, the Title IX Coordinator or Human Resources Director will share the appeal request with all other parties or other appropriate persons such as the Investigator(s), who may file a response within three (3) business days. Another party may also bring their own appeal on separate grounds.

If new grounds are raised, the original appealing party will be permitted to submit a written response to these new grounds within five (5) business days. These responses or appeal requests will be shared with each party. The Appeal Decision-maker will review the appeal request(s) within five (5) business days of completing the pre-appeal exchange of materials. If grounds are not sufficient for an appeal, or the appeal is not timely, the Appeal Decision-maker dismisses the appeal.

When the Appeal Decision-maker finds that at least one of the grounds is met by at least one party, additional principles governing the review of appeals include the following:

- Decisions by the Appeal Decision-maker are to be deferential to the original decision, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is compelling justification to do so.

- Appeals are not intended to be full re-hearings (de novo) of the allegation(s). In most Complaints, appeals are confined to a review of the written documentation or record of the investigation and pertinent documentation regarding the grounds for appeal.
- An appeal is not an opportunity for the Appeal Decision-maker to substitute their judgment for that of the original Investigator(s), Title IX Coordinator or Human Resources Director merely because they disagree with the finding and/or sanction(s).
- Appeals granted based on new evidence should normally be remanded to the Investigator(s) for reconsideration. Other appeals should be remanded at the discretion of the Appeal Decision-maker.
- Sanctions imposed as the result of Administrative Resolution are implemented immediately unless the Title IX Coordinator or Human Resources Director stays their implementation in extraordinary circumstances, pending the outcome of the appeal.
  - For students: Graduation, study abroad, internships/ externships, etc., do NOT in and of themselves constitute exigent circumstances, and students may not be able to participate in those activities during their appeal.
- All parties will be informed in writing within three (3) business days of the outcome of the appeal without significant time delay between notifications, and in accordance with the standards for Notice of Outcome as defined above.
- When appeals result in no change to the finding or sanction, that decision is final. When an appeal results in a new finding or sanction, that finding or sanction can be appealed one final time on the grounds listed above, and in accordance with these procedures.
- In rare cases when a procedural or substantive error cannot be cured by the original Investigator(s) and/or Decision-maker(s) or the Title IX Coordinator/Human Resources Director/Decision-maker (as in cases of bias), the Appeal Decision-maker may recommend a new investigation and/or Administrative Resolution process, including a new Decision-maker.
- The results of a new Administrative Resolution process can be appealed once, on any of the three applicable grounds for appeals.
- In cases in which the appeal results in Respondent's reinstatement to South Plains College or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

## 12. Long-Term Remedies/Actions

Following the conclusion of the Resolution Process, and in addition to any sanctions implemented, the Title IX Coordinator (for Complaints involving students) or the Human Resources Director (for Complaints involving only employees) may implement long-term remedies or actions with respect to the parties and/or the campus community to stop the harassment, discrimination, and/or retaliation; remedy its effects; and prevent its reoccurrence.

These remedies/actions may include, but are not limited to:

- Student referral to counseling and health services
- Employee referral to the Employee Assistance Program
- Education to the community
- Permanent alteration of student housing assignments
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification
- Provision of transportation assistance
- Implementation of long-term contact limitations between the parties

- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator or Human Resources Director, long-term remedies may also be provided to the Complainant even if no policy violation is found.

When no policy violation is found, the Title IX Coordinator or Human Resources Director will address any remedial requirements owed by the College to the Respondent.

### **13. Failure to Complete Sanctions/Comply with Interim and Long-Term Remedies/Responsive Actions**

All Respondents are expected to comply with conduct sanctions, responsive actions, and corrective actions within the timeframe specified by the Title IX Coordinator (for Complaints involving students) or the Human Resources Director (for Complaints involving only employees).

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/responsive/corrective action(s), including suspension, expulsion, and/or termination from South Plains College and may be noted on a student's official transcript or on the employees personnel file. Supervisors are expected to enforce completion of sanctions/responsive actions for their employees.

A student suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator.

### **14. Recordkeeping**

In implementing this Policy, records of all allegations, investigations, resolutions, and hearings will be kept by the Title IX Coordinator or the Human Resources Director in the Title IX complaint database indefinitely, or as required by state or federal law or institutional policy.

### **15. Statement of the Rights of the Parties (see [Appendix C](#))**

### **16. Disability Accommodation in the Resolution Process**

South Plains College is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to the Resolution Process at SPC. Anyone needing such accommodations or support should contact the Coordinator of Disability Services, who will review the request and, in consultation with the person requesting the accommodation, and the Title IX Coordinator (for Complaints involving students) or the Human Resources Director (for Complaints involving only employees), determine which accommodations are appropriate and necessary for full participation in the process.

## Appendix G: Revisions:

Revision Date	Section	Content
January 26, 2024	<b>Entire document</b>	<p>Minor grammatical corrections and edits not impacting policy.                      Replaced “cross-examination” with “questioning”.                      Replaced “protected class” with “protected characteristic”.                      Replaced “case” with “Complaint” as appropriate.                      Cleaned up Process A and B into own attachments</p>
	<b>MAIN POLICY SECTION:</b>	
	1. Definitions	<p>Added the following definitions:  <i>Appeal Decision-maker</i>  <i>Informal Resolution</i>  <i>Student</i></p> <p>Edited following definitions:  <i>Formal Grievance Process</i> – added VAWA regulation  <i>Recipient or SPC</i> - added Recipient to beginning of definition  <i>Remedies</i> – changed “finding” to “Final Determination.”</p>
	2. Rationale for Policy	Reorganizing section moving “SPC values and upholds” sentence from last section and inserted as the second paragraph.
	3. Applicable Scope	<p>Addition of third paragraph “South Plains College recognizes that reports and/or Formal Complaints...”</p> <p>Edit of footnote 2 to indicate that the conduct occurring before 8/14/2020 can now use Process B as needed.</p>
	4. Policy Dissemination	Added new section. Sections following were renumbered.
	7. Administrative Contact Information	Edited Reese and Plainview Centers and added Lubbock Downtown Center contacts.
	8. Notice/Complaints of Discrimination	Edit of paragraph following item 3 to clean up verbiage.
	13. Confidentiality/Privacy	Added “harassment and relation” to list in second sentence.
	14. Jurisdiction	<p>Addition of “(including employee’s work environment)” after “This policy applied to the Education programs and activities...”</p> <p>Addition of “(including virtual learning and employment environments)” to third paragraph following “has continuing effects on campus...”.</p>

	<p>16. Online Harassment and Misconduct</p> <p>17. Policy on Nondiscrimination</p> <p>19.B. Sexual Harassment</p> <p>19.C. Force, Coercion, Consent, and Incapacitation</p> <p>19.D. Other Civil Rights Offenses</p> <p>21. Mandated Reporter</p> <p>22. When a Complainant Does not Wish to Proceed</p> <p>25. Amnesty</p> <p>31. Preservation of Evidence</p> <p><b>Appendix A: PROCESS A</b> Section 5. Right to a Case Advisor</p>	<p>Replace “revenge pornography” with “nude or semi-nude photos or recordings”.</p> <p>Added section B: Gender Identity/Expression</p> <p>Under Section B, Title IX Sexual Harassment 2) Sexual Harassment (Hostile Environment) Definition, added footnote outlining “unwelcomeness”</p> <p>Under Consent, 5<sup>th</sup> paragraph added : “If an individual expresses conditions on their willingness to consent (e.g., use of a condom) or limitations on the scope of their consent, those conditions and limitations must be respected.”</p> <p>Under 1) Sexual Exploitation added third bullet example:  “• Knowingly making an unwelcome disclosure of (or threatening disclosure) an individual’s sexual orientation, gender identity, or gender expression”  Under 2) Threatening – changed to  “Harm/Endangerment”  Under 3) Discrimination – added “d. including disparate treatment”</p> <p>Third from final paragraph added :” This policy provision also applies when a Mandated Reporter, as described above in this section, makes a knowingly false report with the intent to harm or deceive.”</p> <p>Next to last paragraph in section added: “Recipient will take any steps it determines necessary to protect the health and safety of the institution’s community in relation to the alleged misconduct.”</p> <p>Section changed from “Amnesty for Complainants and Witness” to “Amnesty”</p> <p>Added “Stalking” preservation of evidence techniques</p> <p>Section C. Case Advisors in Hearings – removed second paragraph regarding required advisor for hearings.  Section D Case Advisor Role – deleted as it was duplicated text from Section B. Retitled all subsequent sections.  Section E. Case Advisor Violations of SPC Policy – added to third paragraph in first sentence “or who refuses to comply with South Plains College’s established rules of</p>
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		collusion, and/or other shared or similar actions.”
	Section 15-Witness Role	<p>Edited first paragraph second sentence to reflect the encouragement to cooperate removing required and sanctions for not cooperating language.</p> <p>Removed last sentence in third paragraph: “If a witness submits a written statement but does not intend to be and is not present for cross examination at a hearing, their written statement may not be used as evidence.”</p>
	Section 16-Interview Recordings	<p>Changed from “should” to “will” in the following statement: “all involved parties will be made aware of audio and/or video recording.”</p>
	Section 17-Evidentiary Considerations	<p>Edited item 2 by pulling out sexual disposition from number 3 allowing for clarification of 2. Added last paragraph regarding “within the boundaries stated above...”</p>
	Section 18-Referral for Hearing	<p>Edited first sentence of third paragraph to remove student or employee respondent option. Changed to relevant language of “The Title IX Coordinator or Human Resources Director will select an appropriate Decision-maker(s) from the Pool and provide a copy of the investigation report and the file of directly related evidence.”</p>
	Section 20–Additional Evidentiary Considerations	<p>Complete edit of first and second paragraphs to encompass additional evidence. Replaced with: “Previous disciplinary action of any kind involving the Respondent may not be used unless there is an allegation of a pattern of misconduct. Such information may also be considered in determining an appropriate sanction upon a determination of responsibility, assuming the Recipient uses a progressive discipline system. This information is only considered at the sanction stage of the process and is not shared until then.”</p>
	Section 21-Hearing Notice	<p>Second Bullet – edited to remove “and a reminder that attendance is mandatory, superseding all other campus activities.” This is redundant as it shows up in another bullet indicating that the hearing will proceed without them.</p> <p>Eighth bullet – added “wish to conduct cross-examination and...” to the “do not have a Case Advisor”. As well edited to include “if they intent to cross-examine others” to “Each party must have a Case Advisor present if they intend to cross-examine others.”</p> <p>Last paragraph: added pertaining to non-12 month contract employees “Employees who do not have 12-</p>

		<p>month contracts are still expected to participate in Resolution Proceedings that occur during months between contracts.”</p> <p>Changed from three to five day notification prior to hearing for changes in participation</p> <p>Third paragraph changed from one to two days for objections to any decision prior to hearing</p>
	Section 22-Alternate Hearing Participation	
	Section 23-Pre-hearing Preparation	Added the following to the last paragraph: “The pre-hearing meetings may be conducted as separate meetings with each party/Case Advisor, with all parties/Case Advisors present at the same time, remotely, or as a written-only exchange. The Chair will work with the parties to establish the format.”
	Section 24-Pre-hearing Meetings	
	Section 25-Hearing Procedures	<p>Added the following to the last paragraph: “The investigator(s) will remain present for the duration of the hearing.”</p> <p>Complete replacement of section recommendation by ATIXA</p>
	Section 30-Refusal to Submit to Questioning	Removed “controlled environment” as it is already assumed due to the confidentiality of the Complaint.
	Section 31-Hearing Recordings	Added section B. Student Organization Sanctions
	Section 35-Sanctions	Added to the end of the second paragraph: “Supervisors are expected to enforce completion of sanctions/ responsive actions for their employees.”
	Section 39-Failure to Comply with Sanctions and/or Responsive Actions	Changed section title from Policy Examples
	<b>Appendix B-Prohibited Conduct (Title IX) Examples</b>	Added training updates to reflect ATIXA trainings
	<b>Appendix E-Process B</b>	
	Section 2-Resource Pool	Section A Informal Resolution- Added “The Title IX Coordinator has discretion to determine if an investigation will be paused during Informal Resolution, or if it will be limited, or will continue during the Informal Resolution process.” to end of first paragraph. Removed section iii “Negotiated Resolution”.
	Section 5-Resolution Options	Section B Administrative Resolution via an Investigation and Hearing – Added
		Combined the last bullets into one.
	Section 6-Investigation	Removed last paragraph regarding timely notice as this is a part of regular policy and previously stated in the

	<p>Section 7-Determination</p> <p>Section 8 – Additional Details</p> <p>Section 9-Sanctions</p> <p>Section 10-Withdawal or Resignation</p> <p>Section 13-Failure to Comply</p> <p>Process A and Process B Revisions</p> <p>Appendix F: Revision</p>	<p>process B area.</p> <p>G. Character Witnesses was combined with section F as character witness information included in the overall investigation area prior. Added the statement: “Character witnesses or evidence may be offered. The investigation and hearing will determine if the character evidence is relevant. If so, it may be considered. If not, it will be excluded.” Deleted statement that only letters for character witness would be acceptable: “Neither the Title IX Coordinator, the Human Resources Director nor the Investigator(s) will meet with character witnesses, but the Investigator(s) may accept up to two (2) letters supporting the character of each of the parties. Such letters must be provided to the Investigator(s) prior to the report being finalized; otherwise, the parties have waived their right to provide such letters.”</p> <p>B. Student Organization Sanction – Added section to differentiate between the individual student sanctions and the organization/club sanctions</p> <p>B Employees – added to the end of the section “and whether the employee is eligible for rehire”</p> <p>Added to end of second paragraph: “Supervisors are expected to enforce completion of sanctions/responsive actions for their employees.”</p> <p>Removed the revisions from these sections into the general policy as item 32. Redundant and saved pages.</p> <p>Titled the Revision page as Appendix F and referenced in item 32 of policy.</p>
<p>January 4, 2020</p>	<p>1. Definitions</p> <p>2. Rationale for Policy</p> <p>3. Applicable Scope</p>	<p>Added definition of <i>Decision Maker</i></p> <p>Directly Related Evidence – added reference to Related Evidence and edited “...and will not be relied upon by the investigation report or <i>Decision-maker</i>.”</p> <p>Relevant Evidence – added words “inculpatory” to define the word prove and “exculpatory” to define the word disprove.</p> <p>Added word “local” to civil rights laws and regulations sentence to read “federal, state, and local civil rights laws...”</p> <p>Added footnote to indicated Process B would not be used for cases occurring before August 14, 2020.</p>

		<p>Edited first sentence to include “a formal complaint may be filed and...”</p> <p>Edited third parties to include vendors and contractors.</p>
	4. Title IX Coordinator	<p>Added statement “All parties will be provided with a comprehensive brochure (physical or electronic)...”</p>
	7. Notice/Complaints of Discrimination...	<p>Edited first sentence and added additional sentence: “Anonymous reports are accepted but can give rise to a need to investigate to determine if the parties can be identified. If not, no further formal action is taken, though measures intended to protect the community may be enacted.”</p>
	11. Privacy	<p>Changed section to Confidentiality/Privacy</p> <p>Edited section to correct privacy terms to confidentiality as appropriate.</p> <p>Third paragraph, edited “Hearing Panel/Decision-makers” to just “Decision-makers”.</p>
	12. Jurisdiction of SPC	<p>Section c: changed from “achievements of oneself or..” by deleting “oneself or”</p>
	13. Time Limits of Reporting	<p>Added the following to the last paragraph of the section: Typically, this Policy is only applied to incidents that occurred after August 14, 2020. For incidents that occurred prior to August 14, 2020, previous versions of this Policy will apply. Those versions are available from the Title IX Coordinator.</p>
	17. Policy on Discriminatory Harassment	<p>All offense definitions policies encompass actual and/or attempted offenses.</p> <p>Footnote 6 – added incest and statutory rate detail</p>