

## **Southern State Community College Non-Discrimination Policy under the 2020 Amendments to the US Dept. of Education Title IX Regulation**

Southern State Community College strongly opposes and will not tolerate harassment or related behavior of any kind. It is the policy of the College to maintain a working and learning environment free from any sexual harassment, sexual violence, or discrimination against employees, applicants, and students on the basis of race, color, religion, gender, gender identity or expression, national origin (ancestry), military status (past, present or future), disability, age (40 years or older), status as a parent during pregnancy and immediately after the birth of a child, status as a parent of a young child, status as a foster parent, genetic information, or sexual orientation. All staff, faculty, and students of the College should be aware that such behavior violates both law and College policy. This prohibition extends to discrimination or harassment, based on the protected classes, including the creation of an intimidating, hostile or offensive working or learning environment. Sexual misconduct, sexual assault, dating violence, domestic violence and stalking are forms of sexual harassment behaviors prohibited by this policy.

The College recognizes all employees and students should be able to work and learn in safety and dignity and should not have to endure insulting, degrading or objectionable treatment. Any individual who files a complaint or participates in an investigation shall be protected from any form of retaliation arising out of the filing of the complaint or participation in the investigation. This includes intimidation, coercion, threats, or any other form of retaliation.

The College will respond promptly and effectively to any reported violation of this policy and take appropriate action to prevent, correct, and when necessary, take disciplinary action.

Discrimination and harassment are illegal. This policy and associated procedures are not intended to impair or limit the right of anyone to seek a remedy available under state or federal law. This policy will not be enforced so as to infringe upon individual rights associated with the First Amendment of the United States Constitution, including academic freedom.

It is a violation of this policy to knowingly provide any false information regarding an alleged violation of this policy. Violations may include but are not limited to: false accusations, interfering with an investigation, or encouraging others to not cooperate with any investigation. To do so will result in disciplinary action.

### Application

This policy and associated procedures are applicable to all aspects of College operations and programs. It applies to all adult and minor staff members, faculty (bargaining and non-

bargaining unit members), students (including secondary school students participating in SSCC programs), and visitors/guests on campus to the extent that there is an allegation of prohibited conduct, as defined by this policy, made by them against College students or employees. The policy also applies to all third-party vendors, contractors, subcontractors, and others who do business with the College. The prohibitions of this policy extend to off campus conduct and the on-line/virtual environment if the conduct is in connection with College operations or a College-sponsored program or activity and poses an obvious and serious threat of harm to students or employees, or may have the effect of creating a hostile work and/or educational environment.

### Prohibited Conduct

1. Harassment - Unwelcome conduct, or an unwelcome course of conduct, toward an individual or group of individuals based on sex, race, color, religion, national origin, age, sexual orientation, gender identity and/or expression, disability, or veteran status or any other basis protected by law, that is so severe, pervasive, and objectively offensive that it substantially interferes with the ability of a person to work, learn, live or participate in, or benefit from the services, activities, or privileges provided by the College. In no event shall this provision be used to discipline a student for speech protected by the First Amendment of the United States.
2. Sexual Harassment - In the employment context, sexual harassment is unwelcome, sex- or gender-based verbal or physical conduct that unreasonably (from both a subjective, i.e., the complainant's, and an objective, i.e., a reasonable person's, viewpoint) interferes with an individual's work performance or creates an intimidating, hostile, or offensive work environment.

In the education context, sexual harassment is unwelcome, sex- or gender-based verbal or physical conduct that unreasonably (from both a subjective, i.e., the complainant's, and an objective, i.e., a reasonable person's, viewpoint) interferes with, denies, or limits an individual's ability to participate in or benefit from the College's educational programs and activities.

Sexual harassment can take two forms: power differentials (quid pro quo) or hostile environment:

- a. Quid pro quo sexual harassment exists when:
  - 1) There are unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature; and
  - 2) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic status; or

- 3) Submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions adversely affecting such individual.

b. Hostile environment in the employment context includes any situation in which there is harassing conduct that is sufficiently severe, persistent, or pervasive that it unreasonably (from both a subjective, i.e., the complainant's, and an objective, i.e., a reasonable person's, viewpoint) interferes with an individual's work performance or creates an intimidating, hostile, or offensive work environment. Hostile environment in the education context includes any situation in which there is harassing conduct that is sufficiently severe, persistent, or pervasive that it unreasonably (from both a subjective, i.e., the complainant's, and an objective, i.e., a reasonable person's, viewpoint) limits, interferes with, or denies educational benefits or opportunities.

The determination of whether an environment is "hostile" is based on a totality of circumstances. These circumstances may include:

- 1) The degree to which the conduct interfered with the complainant's educational or work performance;
- 2) The nature, scope, severity, frequency, duration, and location of the incident or incidents;
- 3) The identity, number, and relationships of persons involved;
- 4) Whether the conduct was physically threatening;
- 5) Whether the conduct occurred in the context of other discriminatory conduct.

**A single or isolated incident of sexual harassment may be severe enough to create a hostile environment.**

3. Sexual Assault - Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.
  - a. Rape – The 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 victim.
  - b. Fondling or inappropriate touching of the private body parts – The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving

consent because of his/her age or because of his/her temporary or permanent mental incapacity.

- c. Incest – Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- d. Statutory Rape - Non-forcible sexual intercourse with a person who is under the statutory age of consent.

*Note:* Sex Offenses are criminalized under the Ohio Revised Code as follows – Rape (ORC 2907.02); Sexual Battery (ORC 2907.03); Gross Sexual Imposition (ORC 2907.05); Sexual Imposition (ORC 2907.06); Unlawful Sexual Conduct with a Minor (ORC 2907.04)

- 4. Disparate Treatment – Treating employees differently regarding the terms and conditions of employment, including hiring, firing, transfer, and/or receipt of benefits based upon membership in a protected class.
- 5. Domestic Violence –covered under the definition of domestic violence:
  - a. A current or former spouse or intimate partner of the victim.
  - b. A person with whom the victim shares a child in common.
  - c. A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner.
  - d. A person similarly situated to a spouse of the victim.
  - e. Any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

*Note:* Domestic Violence is criminalized under Ohio Revised Code 2919.25

- 6. Dating Violence – Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the parties’ statements 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 purpose of this definition, dating violence includes but is not limited to sexual or physical abuse or threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

*Note:* The following are criminalized under the Ohio Revised Code – Felonious Assault (ORC 2903.11); Aggravated Assault (ORC 2903.12); Assault (ORC 2903.13); Negligent Assault (ORC 2903.14); Kidnapping (ORC 2905.01); Abduction (ORC 2905.02); Unlawful Restraint (ORC 2905.03); Disorderly Conduct (ORC 2917.11).

7. Stalking – Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person’s safety or the safety of others, or to suffer substantial emotional distress.
  - a. “Course of conduct” means two or more acts, including but not limited to, acts in which the stalker 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.
  - b. “Substantial emotional distress” means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
  - c. “Reasonable person” means one under similar circumstances with similar identities to the victim.

*Note:* The following are criminalized under the Ohio Revised Code – Aggravated Menacing (ORC 2903.21); Menacing by Stalking (ORC 2903.211); Menacing (ORC 2903.22); Telecommunications Harassment (ORC 2917.21)

8. Retaliation – Inappropriate action taken against an individual who has sought relief under this policy when such action is motivated in whole or in part by the fact that the individual sought such relief. Examples include academic or employment reprisal against an individual who files a complaint or third-party report, or otherwise participates in the investigative and/or disciplinary process. The prohibition against retaliation extends to any person who opposes prohibited conduct, as defined by this policy, or who testifies, assists, or participates in any manner in investigation, proceeding, or hearing relative to prohibited conduct as defined by this policy.
9. Bullying – Repeated, unreasonable actions of individuals (or a group) directed towards an employee or student (or a group of employees/students), which is intended to intimidate and creates a risk to the health and safety of the employee(s)/student(s). This conduct may include verbal abuse, such as the use of derogatory remarks, insults and epithets; verbal or physical conduct that a reasonable person would find threatening, intimidating or humiliating;

emotional; retaliation; or the gratuitous sabotage or undermining of a person's work performance/education to include cyber bullying.

## 10. Other definitions

- a. Consent – Permissible sexual conduct requires consent. An individual cannot consent who is substantially impaired by any drug or intoxicant; or who has been compelled by force, threat of force, or deception; or if the accused substantially impairs the victim/survivor's judgment or control by administering any drug, intoxicant or controlled substance to the other person surreptitiously or by force, threat of force or deception; or who is unaware that the act is being committed; or whose ability to consent is impaired because of a mental or physical condition; or who is coerced by supervisory or disciplinary authority. Consent may be withdrawn at any time. Prior sexual activity or relationship does not, in and of itself, constitute consent.
- b. No person who is underage can ever consent to sexual activity of any kind. Therefore, sexual contact with or behavior toward a minor is prohibited. The age of consent in Ohio is 16. A person engaging in sexual activity is responsible for ensuring that his/her sexual partner is of legally consenting age. Any sexual contact or activity with a person under the age of consent is necessarily non-consensual for the purpose of this policy and the Ohio law. Any person who believes that any minor may have been abused or subjected to sexual behavior or content of any kind by one of our students or employees should report the situation immediately.
- c. Responsible Employee - The College has defined all faculty and staff as responsible employees/mandatory reporters. When an employee becomes aware of an alleged act of sexual violence or other misconduct under this procedure, the employee must promptly contact the Title IX Coordinator.

EXCEPTION: The Mental Health counselor is designated as a "confidential resource" and will only report violations of this policy with the reporter's permission except under the following conditions:

- Compliance with a lawfully issued court order
- There is reason to believe that the person providing the information is at high risk for suicide.
- There is reason to believe that the information provided indicates that there is a high risk of violence to the person reporting the information or to others.

- There is reason to believe that the information provided indicates that a minor is being abused.

11. Reporting - Any person who believes he or she has been a victim of prohibited conduct as defined by this policy is strongly encouraged to pursue relief by reporting the prohibited conduct to the appropriate individual(s). Reports can be made directly to the Title IX Coordinator under the federal statutes of Titles VI, VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972 and Section 504 of the Vocational Rehabilitation Act of 1973. Alternatively, a grievant may report the behavior to any department vice president, dean, chair, director, manager, supervisor, coordinator, department head, or the Campus Safety Officer.

Any employee who has received a report or who has knowledge of conduct prohibited by this policy must promptly inform the Title IX Coordinator. The said officer will be available to respond to any questions or concerns regarding this policy and associated procedures. The contact information for the SSCC Title IX Coordinator is below:

Dr. Peggy Chalker, Campus Director, Mt. Orab / Brown Co Campus, 351 Brooks-Malott Rd. Mt. Orab, OH, ext. 2880, [pchalker@sscc.edu](mailto:pchalker@sscc.edu).

Any manager, supervisor, or designated employee responsible for reporting or responding to conduct prohibited by this policy and had knowledge of the prohibited conduct and took no action to stop it or failed to report the prohibited act may be subject to disciplinary action.

Any allegation involving solicitation of sexual activity, sexual conduct, sexual contact, or rape where the alleged victim is under the age of 16 will be reported to the local child protection services agency and local law enforcement.

12. Action - Each report of prohibited conduct as defined by this policy will be promptly and impartially investigated. Interim measures to prevent continued prohibited conduct during the complaint investigation will be considered and implemented as deemed appropriate. If the College determines by a preponderance of the evidence that a violation has occurred, the College will quickly act to provide appropriate relief to the complainant and steps will be taken to prevent future prohibited conduct, as defined by this

policy, and remedy discriminatory effects. This may include disciplinary action against the respondent as outlined in applicable student and employee codes of conduct and disciplinary action policies, procedures, and guidelines as well as associated procedures implemented pursuant to this policy. See Anti-discrimination and Harassment Procedure.

13. Compliance - The Departments of Student Affairs and Human Resources are the designated departments for compliance with federal statutes including: Titles VI, VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Americans with Disabilities Act of 1990, Age Discrimination in Employment Act of 1967, Pregnancy Discrimination Act of 1978, Age Discrimination Act, Executive Order 11246, Sections 503 and 504 of the Vocational Rehabilitation Act of 1973, Vietnam Era Veteran's Readjustment Act of 1974, Violence Against Women Reauthorization Act of 2013 and regulations of the office of federal contract compliance program.

14. Implementation - The Title IX Coordinator, Dean of Students, and the Vice President of Academic/Student Affairs will jointly implement procedures and forms, which are consistent with the provisions of this policy and applicable law.

15. Resources. Links to applicable resources

<http://www.oaesv.org>

<https://www.odh.ohio.gov/health/sadv/sadvwhlinks.aspx>

<http://www.odvn.org/>

<http://ohiohopes.org/resources/ywca-greater-cincinnati-2/>

<http://ohiohopes.org/resources/family-violence-prevention-center-of-greene-county-2/>

<https://www.ohiohealth.com/services/neuroscience/our-programs/behavioral-and-mental-health/sarnco>

<https://www.cdc.gov/violenceprevention/intimatepartnerviolence/index.html>

<https://www.cdc.gov/features/prevent-stalking/infographic.html>