

Policy and Procedures

Saginaw Chippewa Tribal College

Title IX Policy and Procedures

Policy:

The Saginaw Chippewa Tribal College (SCTC) will address all incidents of sex discrimination and sexual harassment reported to the SCTC Title IX Coordinator or any employee, in compliance with the Higher Education Opportunity Act, the Clery Act, and Title IX of the Education Amendments of 1972, as amended.

Purpose:

This policy informs all prospective students, current students, and all SCTC employees of college policies and procedures regarding sex discrimination and sexual harassment to which all students, members of the faculty, and non-faculty personnel are expected to adhere during their time at SCTC. In addition, comprehensive information is provided regarding the reporting of sex discrimination and sexual harassment and avenues to seek immediate assistance.

Procedure:

The Saginaw Chippewa Tribal College seeks to create a positive educational environment on and off campus through our academic programs, services, activities, policies and procedures aimed at providing protection against sex discrimination and harassment. To that end, SCTC condemns discrimination in its education programs and activities based on sex or gender, sexual orientation, gender identity or expression, sexual harassment, sexual violence, domestic violence, dating violence, and stalking. Notice of a sex discrimination or sexual harassment incident to any employee charges SCTC with actual knowledge and triggers SCTC's response obligations as described in the institutional action section.

Scope of the Policy

SCTC must respond when sex discrimination and harassment occurs in the school's education program or activity, against a person in the United States. Education program or activity includes locations, events, or circumstances over which the school exercised substantial control over both the respondent and the context in which the discrimination or harassment occurred, and also includes any building owned or controlled by a student organization that is officially recognized by a postsecondary institution. Title IX applies to all of a school's education programs or activities, whether such programs or activities occur on-campus or off-campus, including online instruction.

Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex

discrimination or sexual harassment), in person, by mail, by telephone, or by e-mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at any time, including during non-business hours, by using the telephone number or e-mail address, or by mail to the office address, listed for the Title IX Coordinator.

Individuals are responsible for immediately reporting any knowledge or information concerning sexual harassment to the SCTC Title IX Coordinator identified in this policy which covers unwelcome conduct of a sexual or gender-based nature, whether committed on-campus, or off-campus where SCTC has control over the respondent or the context of the harassment.

SCTC encourages victims of sexual harassment to talk with a counselor. Different employees within the scope of SCTC's resources (Saginaw Chippewa Indian Tribe's (SCIT) Behavioral Health Program) have different abilities to maintain a victim's confidentiality.

- **SCIT's Behavioral Health Program Counselors** are required to maintain near complete confidentiality; talking to them is sometimes called a "privileged communication."
- **Behavioral Health Program Employees** may talk to a victim in confidence, and generally only report to SCTC that an incident occurred without revealing any personally identifying information. Disclosures to Behavioral Health employees will not trigger a College investigation into an incident against the complainant's wishes.
- **SCTC Employees** are required to report all the details of an incident (including the identities of both the complainant and respondent) to the Title IX Coordinator. A report to SCTC employees (called "responsible employees") constitutes a report to SCTC and places SCTC on notice to take appropriate steps to address the situation.

Compliance with this policy does not constitute a violation of the Family Educational Rights and Privacy Act (FERPA). For the purpose of this policy, the outcome of a disciplinary proceeding means only the institution's final determination with respect to the alleged sex discrimination or sexual harassment offense and any sanction that is imposed against the respondent. This policy also applies to retaliation by SCTC or any person against any other person when for the purpose of interfering with Title IX rights, or because the person has participated or refused to participate in any manner in a proceeding under Title IX that is prohibited.

Assistance Following an Incident of Sexual Harassment

- **Immediate Assistance:**
Persons who have complaints of sexual harassment may file their complaints with the Title IX Coordinator (Gena Qualls) located in the West Building, 2274 Enterprise Dr. Mt Pleasant, MI 48858, phone number 989-317-4760 ext. 225, or email gqualls@sagchip.org; gqualls@sagchip.edu.

Victims of sexual violence should get to a place of safety and call the Saginaw Chippewa Tribal Police at Dispatch: 989-775-4700 or Tip Line: 989-775-4775. Obtain necessary

medical treatment; time is a critical factor for evidence collection and preservation. An assault should be reported directly to a law enforcement officer, and college officials will aid in facilitating this process. Filing a police report will not obligate the complainant to prosecute, nor will it subject the reporting party to scrutiny or judgmental opinions from officers. Filing a police report will ensure that a complainant of sexual violence receives the necessary medical treatment and tests and provide the opportunity for collection of evidence helpful in prosecution, which cannot be obtained later.

COMPLAINANT OR WITNESS: CALL SAGINAW CHIPPEWA TRIBAL POLICE at Dispatch: 989-775-4700 OR 9-1-1 FOR IMMEDIATE ASSISTANCE.

- **Ongoing Assistance:**

In order to ensure the safety and well-being of the complainant, SCTC may take interim measures such as, changing work schedules, academic schedules, addressing transportation issues, withdraw from/retake a class without penalty, and access academic support (e.g., tutoring), leaves of absence, campus escort services, or similar measures. In addition, while an investigation is pending SCTC may initiate a “no contact order” between the parties that carries a sanction of expulsion if violated.

SCTC does not offer internal counseling options, but law enforcement officials and college representatives are available to facilitate access to support services, which may be obtained through SCIT Behavioral Health Prevention at 989.775.4850 or through SCTC’s direct Listening Ear Crisis Hotline 989.775.1525. Several service organizations in Michigan have provided telephone numbers and made available other services for students, faculty, staff and campus community members. SCTC Administration will assist any interested person in contacting these agencies.

- **Additional Support Services:**

- National Suicide Prevention Lifeline - 1.800.273.8255
- Listening Ear - 989.775.1525
- SCIT Behavioral Health Crisis Walk-in - 989.775.4850
- SCIT Behavioral Health Crisis after Hours– 989.775.4700 (Tribal Police: ask for after-hours Behavioral Health line.
- Nimkee Clinic – 989.775.4600
- Veterans Crisis Line – 1.800.273.8255
- National Domestic Violence Hotline - 1-800-799-7233 (SAFE)
- Rape, Abuse & Incest National Network Hotline - 1-800-656-4673 (HOPE)
- Communication Services for the Deaf (TTY) - 1-800-252-1017 (TTY)
- Communication Services for the Deaf (Voice) - 1-866-845-7445 (Voice)

Title IX Coordinator and Staff

- Title IX Coordinator has primary responsibility for overseeing the process of coordinating SCTC’s compliance efforts, receiving complaints, investigations, hearing, sanctions, appeals, and education and training associated with this policy. To file a

complaint or submit questions concerning actions governed by this policy contact the Title IX Coordinator (Gena Qualls) located in the West Building, 2274 Enterprise Dr. Mt Pleasant, MI 48858, phone number 989-317-4760 ext. 225, or email gequalls@sagchip.org; gqualls@sagchip.edu.

- SCTC’s Dean of Students has the secondary responsibility and assists in the duties of the Title IX Coordinator. The Dean of Student (Amanda Flaughter) located in the West Building, 2274 Enterprise Dr. Mt Pleasant, MI 48858, phone number 989-317-4760 ext. 232, or email aflaughter@sagchip.org; aflaughter@sagchip.edu.
- Title IX Investigators may include but not be limited to SCTC Administration and faculty. The primary responsibility of the investigator is to collect statements and any evidence directly related to any allegations of a Title IX policy violation as directed by the Title IX Coordinator. Investigators will receive appropriate Title IX and trauma informed training.
- Title IX Hearing Officer may include an SCTC administrator. The primary responsibility of the hearing officer will be to ensure both parties receive due process in the event allegations of a Title IX policy violation are directed to a hearing by the Title IX Coordinator. Hearing Officers will receive appropriate Title IX and trauma informed training.
- Title IX Hearing Member may include SCTC faculty or staff members. The primary responsibility of the hearing member is to listen to both sides of the complaint. Each hearing member will evaluate the information being provided by both parties to make a decision whether or not a Title IX policy violation took place. Hearing members will receive appropriate Title IX training.

§ 106.30 Definitions

(a) As used in this part:

- **Actual knowledge** means notice of sexual harassment or allegations of sexual harassment to SCTC’s Title IX Coordinator or any official of the college who has authority to institute corrective measures on behalf of the college, or to any employee of the college.
 - **Imputation of knowledge** based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. This standard is not met when the only official of the recipient with actual knowledge is the respondent. The mere ability or obligation to report sexual harassment or to inform a student about how to report sexual harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of the college.
 - **“Notice”** as used in this paragraph includes, but is not limited to, a report of sexual harassment to the Title IX Coordinator as described in § 106.8(a).

- **Complainant:** Individual who is reported to have experienced prohibited conduct, regardless of whether the individual makes a report or seeks disciplinary action.
- **Respondent:** Individual who has been accused of prohibited conduct.
- **Third party:** Individual who is not an SCTC student, faculty member, or staff member (e.g., vendors, alumni/ae, or visitors).
- **Witness:** Individual who may have information relevant to a report of prohibited conduct. A witness may be a student, an employee, or a third party.
- **Sexual harassment** means conduct on the basis of sex that satisfies one or more of the following: (1) An employee of the college conditioning the provision of an aid, benefit, or service of the college on an individual’s participation in unwelcome sexual conduct; (2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the college’s education program or activity; or (3) “Sexual assault” as defined in 20 U.S.C. 1092(f)(6)(A)(v), “dating violence” as defined in 34 U.S.C. 12291(a)(10), “domestic violence” as defined in 34 U.S.C. 12291(a)(8), or “stalking” as defined in 34 U.S.C. 12291(a)(30).
 - **“Sexual assault”** as defined in 20 U.S.C. 1092(f)(6)(A)(v), Any sexual act directed against another person, without the consent of the Complainant, including instances in which the Complainant is incapable of giving consent.
 - **“Domestic violence”** as defined in 34 U.S.C. 12291(a)(8) includes felony or misdemeanor crimes committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction receiving grant funding and, in the case of victim services, includes the use or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who—
 - is a current or former spouse or intimate partner of the victim, or person similarly situated to a spouse of the victim;
 - is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
 - shares a child in common with the victim; or
 - commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction.
 - **“Dating violence”** as defined in 34 U.S.C.12291(a)(10), violence on the basis of sex, committed by a person, who is in or has been in a social relationship of a romantic or intimate nature with the Complainant. or
 - **“Stalking”** as defined in 34 U.S.C.12291(a)(30) "[e]ngaging in a course of conduct directed at a specific person that would cause a reasonable person to — (A) fear for his or her safety or the safety of others; or (B) suffer substantial emotional distress.

- **Sexual Coercion** is the act of using pressure (including physical pressure, verbal pressure or emotional pressure), alcohol, medications, drugs, or force to have sexual contact against someone’s will or with someone who has already refused. This includes rape, sexual assault, sexual exploitation and sexual misconduct.
 - **Advisor:** A person who has agreed to assist a complainant or respondent during the Title IX process. The advisor may be a person of the student’s choosing, including but not limited to an SCTC faculty or staff member, a friend or an attorney.
Consent: Consent is the act of willingly agreeing to engage in sexual contact or conduct. Individuals who consent to sex must be able to understand what they are doing. Under this policy, “No” always means “No,” and the absence of “No” may not mean “Yes”.
- A. Consent is informed, knowing and voluntary. Consent is active, not passive. Silence, in and of itself, cannot be interpreted as consent. Consent can be given by words or actions, as long as those words or actions create mutually understandable permission regarding the conditions of sexual activity.
 - B. Consent to one form of sexual activity cannot imply consent to other forms of sexual activity.
 - C. Previous relationships or consent does not imply consent to future sexual acts.
 - D. Consent cannot be procured by use of physical force, compelling threats, intimidating behavior, or coercion. Coercion is unreasonable pressure for sexual activity.
 - E. In order to give effective consent, one must be of legal age and have the capacity to consent. Incapacity may result from mental disability, intellectual disability, unconsciousness/sleep, age, or use of alcohol, drugs, medication, and/or other substances. Consent given by someone who one should know to be, or based on the circumstances, reasonably should have known to be, mentally or physically incapacitated, is a policy violation. Incapacitation is a state where someone cannot make rational, reasonable decisions because he or she lacks capacity to give knowing consent. Note: indications of consent are irrelevant if the initiator knows or should reasonably have known of the incapacity of the other person.

Examples of when a person should know the other is incapacitated include, but are not limited to:

- The amount of alcohol, medication or drugs consumed,
- Imbalance or stumbling,
- Slurred speech,
- Lack of consciousness or inability to control bodily functions or movements, or vomiting, or
- Mental disability or incapacity.

- F. Use of alcohol, medications, or other drugs will not excuse behavior that violates this policy.

Reporting

A. Mandatory Reporting

All SCTC employees are responsible for taking all appropriate action to prevent sex discrimination or sexual harassment, to correct it when it occurs, and must promptly report it to the Title IX Coordinator. Failure to do so may result in disciplinary action up to and including termination. All SCTC employees are considered responsible employees with a duty to report any incident to the Title IX Coordinator.

B. Confidential Reporting

Resources are available through SCIT Behavioral Health Program and SCTC's direct Listening Ear Hotline. Family Violence Prevention staff, counselors, victims' advocates are available to speak with any person who wishes to report an incident and remain anonymous. All forms of sexual harassment should be reported, no matter the severity. In addition, SCTC should be made aware of possible threats to the campus community in order to issue timely warnings.

C. Reporting to the Police

SCTC strongly encourages anyone to report sexual violence and any other criminal offenses to the police. This does not commit a person to prosecution, but will allow the gathering of information and evidence. The information and evidence preserve future options regarding criminal prosecution, college disciplinary actions and/or civil actions against the respondent.

- If the incident happened on campus, it can be reported to the Saginaw Chippewa Tribal Police at Dispatch: 989-775-4700. If the incident happened anywhere else, it can be reported to the local law enforcement with jurisdiction in the location where it occurred. Know that the information you report can be helpful in supporting other reports and/or preventing further incidents.
- Reporting for faculty and staff (non-student) instances: Faculty and staff shall report any instances of sexual harassment by another faculty or staff member, to the Title IX Coordinator. As stated above, SCTC also strongly encourages reporting any instances to the police.
- Employee obligation to report (student instances): In compliance with Title IX, employees who become aware of a student instance of sexual harassment shall immediately report such instance to the Title IX Coordinator, including the name of the persons involved.

D. Reporting of Student Instances

Students shall report any instances of sex discrimination or sexual harassment to any SCTC employee and/or the Title IX Coordinator. A complaint should be filed as soon as possible. If either the complainant or the respondent is a student, the incident will be addressed through the Title IX process. The report can be made in person, by phone, mail, or email using the contact information listed for the Title IX Coordinator or by any other means that results in the Coordinator receiving the report. The report can be made any time, even during non-business hours.

After receiving a report or notice of an incident, the Title IX Coordinator will promptly contact the complainant confidentially to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint.

SCTC will promptly take necessary steps to protect the complainant and ensure safety as necessary, including taking interim steps before the final outcome of any investigation once a report or knowledge of sex discrimination or sexual harassment has occurred. Periodic updates on the status of the investigation will be provided to the complainant. If the school determines that the sexual violence occurred, SCTC will continue to take these steps to protect the complainant and ensure his or her safety, as necessary. SCTC will provide the complainant with any available resources, such as victim advocacy, academic support, counseling, health and mental health services, and assistance in reporting a crime to local law enforcement.

Written Notice of Complaint

Upon receipt of a formal complaint, SCTC will provide written notice to all known parties in sufficient time to give the respondent time to prepare a response before an initial interview. Written notice includes:

- a. Notice of the grievance process, including any informal resolution process;
- b. Notice of the allegations, including sufficient detail (i.e., names of known parties, the conduct alleged to be sexual harassment, and the date and location of the conduct, if known) to allow the respondent to prepare a response;
- c. A statement that the respondent is presumed not responsible for the conduct and that responsibility will be determined at the conclusion of the grievance process;
- d. Notice of the parties' right to have an advisor (who may be, but is not required to be, an attorney) and to inspect and review evidence; and
- e. Notice that knowingly making false statements or providing false information in the grievance process is a violation of the code of conduct and subject to disciplinary action.

Investigation

The coordinator will be available to explain to both parties the process and to notify in writing of the receipt of a complaint and the actions SCTC will take. The burden of gathering evidence and burden of proof must remain on SCTC, not on the parties.

An investigation will be conducted by an SCTC Title IX official. This investigation will include:

- Meeting personally with the complainant, (unless extraordinary circumstances prevent a personal meeting),
- Meeting personally with the respondent, (unless extraordinary circumstances prevent a personal meeting),
- Presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made,
- Collecting any physical evidence,
- Meeting personally with any witnesses, (unless extraordinary circumstances prevent a personal meeting with one or more witnesses), and
- Reviewing any documentary evidence.

The investigation of complaints will be adequate, reliable and impartial. The investigation process can take up to 60 days. When investigating a complaint and throughout the complaint process, SCTC must:

1. Ensure that the burden of proof and of gathering evidence rests on SCTC rather than the parties;
2. Provide an equal opportunity for the parties to present witnesses and evidence
3. Not restrict either party's ability to discuss the allegations or gather and present evidence;
4. Provide the parties with the same opportunities to have others present during interviews or related proceedings, including an advisor;
5. Provide, to a party who is invited or expected to attend, written notice of the date, time, participants, purpose, and location of any investigative interview, hearing or other meeting with enough time to allow the party to prepare and participate;
6. Provide both parties and their advisors an equal opportunity to review all evidence directly related to the allegations in the formal complaint (both exculpatory and inculpatory) at least 10 days prior to the completion of the final investigation; and
7. Prepare a written investigation report that fairly summarizes the relevant evidence and provide the report to both parties and their advisors for review and written response at least 10 days before a hearing or determination of responsibility. SCTC will determine if a Title IX hearing is necessary.

If it is determined that SCTC will proceed with a hearing, the complainant and the respondent will be notified in writing of the hearing date.

Mandatory or Permissive Dismissal

Mandatory dismissal must occur when determined in the course of the investigation that allegation in a formal complaint: (1) did not occur in SCTC's program or activity; (2) did not constitute sexual harassment as defined; or (3) did not occur against a person within the US. Both parties must receive written notice of a mandatory dismissal and reasons.

Permissive dismissal may occur at any time during the investigation or hearing when: (1) a complainant notifies the Title IX Coordinator in writing that they would like to withdraw; or (2) the respondent is no longer enrolled or employed by SCTC; or (3) specific circumstances prevent SCTC from gathering evidence sufficient to reach a determination. Both parties must receive written notice of a permissive dismissal and reasons.

SCTC may still address allegations of misconduct under the Student Code of Conduct.

Institutional Action

- A. **Mediation** is a method of informal resolution. Informal resolutions are prohibited unless a formal complaint of sexual harassment is filed. Mediation may include conflict resolution or a restorative agreement between the parties with a trained Title IX Officer presiding over the mediation. Participation in mediation is not mandatory, but will only take place with the consent of both parties involved. Mediation may only be used:
1. Prior to a Notice of hearing being issued;
 2. When a trained Title IX Officer determines this is a suitable option for resolving the concern, and both the Complainant and Respondent agree to use the process;
 3. When the complaint does not involve sexual violence as defined in the Title IX Policy.
 4. When both parties acknowledge receipt of written notice of their rights under this policy and both parties provide written, voluntary consent.
 5. Mediation is not available when the complaint alleges an SCTC employee harassed a student.

Because the outcomes of voluntary resolution conversations are mutually developed and agreed upon by parties involved, an appeal of the process and its result is not permitted. However, either the Complainant or the Respondent may terminate mediation at any time prior to the entry of a voluntary resolution and proceed with the Title IX hearing. If the parties are unable to agree on a voluntary resolution, the matter will be referred by the Title IX Coordinator to a Title IX Hearing. No offers to resolve the conflict that were made or discussed during the informal voluntary resolution process may be introduced during the Title IX Hearing.

B. Title IX Hearing

Mediation is never appropriate in sexual violence cases. If it is determined that SCTC will proceed with a hearing, the complainant and the respondent will be notified in writing of the hearing date, the alleged policy violation and issued a notice to appear at the hearing. The written notice will be hand delivered directly to the student(s) or mailed to the local address as filed in the Registrar's Office. Students are responsible for providing and maintaining a current local address in the Registrar's Office.

The hearing members shall include at least one trauma trained individual in sex discrimination or sexual harassment adjudication to include a trained Title IX Officer as the hearing officer and three members of faculty and staff as hearing members. The selection of the hearing members will be made by the Title IX Coordinator. Criteria for the hearing committee will include: 1) have received all appropriate training, 2) not a

current instructor of either party involved, 3) have no previous substantive or direct knowledge of the incident, and 4) have no other perceived conflict of interest as determined by interview process with the Title IX Coordinator.

Description of the duties of the Title IX Hearing Members will include but not limited to the following:

- Read and understand the Title IX Policy and Procedures, which include the hearing process.
- Read and understand all of the information of the Title IX case provided by the Coordinator prior to the hearing as part of a hearing packet.
- Read and understand the procedures of the Title IX hearing provided by the Coordinator prior to the hearing as part of a hearing packet.
- Have a clear understanding of the incident in question before going into deliberations for a decision.
- Decide the outcome (majority vote) and sanctions if needed based on the information presented, hearing notes, and the SCTC Title IX Policy.
- Provide copies of notes, if made, to the hearing officer. The hearing officer will inform the parties of the decision at the hearing and send a letter as described in this policy.

Complainant's Rights:

- Be given a written explanation of the allegations and the hearing process;
- Have access to evidentiary material in advance of the hearing;
- Be present during the entire hearing;
- Be accompanied by an advisor during the hearing. Students must provide SCTC with the name and contact information for the student's advisor as soon as practical but at least three (3) days prior to the hearing (if the advisor is an attorney, SCTC's attorney will also be present for the hearing); Under U.S. Department of Education regulations applicable to Title IX, cross-examination is required during the hearing, but must be conducted by the parties' Advisors. The parties are not permitted to directly cross-examine each other or any witnesses. If a party does not have an Advisor for a hearing, the College will appoint a trained Advisor for the limited purpose of conducting any cross-examination. A party may reject this appointment and choose their own Advisor, but they may not proceed without an Advisor. If the party's Advisor will not conduct cross-examination, the College will appoint an Advisor who will do so thoroughly, regardless of the participation or non-participation of the advised party in the hearing itself. Extensive questioning of the parties and witnesses will also be conducted by the Decision-Maker(s) during the hearing.
- Be given a timely hearing;
- Exclude evidence of the victim's past sexual history from discussion during the hearing. The past sexual history of the victim with persons other than the respondent shall be presumed irrelevant;
- Clarifying that evidence of a prior consensual dating or sexual relationship between the parties by itself does not imply consent or preclude a finding of sexual harassment;

- Written notification of the outcome of the hearing including any sanctions; remedies/accommodations for the complainant; additional remedies for the school community;
- Written notification of any external counseling services that may be available;
- Written notification of options for changing academic, and work site situations if reasonable;
- Written notification of an avenue for appeal.

Respondent's Rights:

- Be given written notice of the allegations and the hearing process ;
- Have access to evidentiary material in advance of the hearing;
- Be present during the entire hearing;
- Have no violation presumed until found responsible;
- Be given a timely hearing;
- Be accompanied by an advisor during the hearing. Students must provide SCTC with the name and contact information for the student's advisor as soon as practical but at least three (3) days prior to the hearing (if the advisor is an attorney, SCTC's attorney will also be present for the hearing);
- Written notification of the outcome of the hearing including any sanctions; remedies/accommodations for the complainant; additional remedies for the school community;
- Written notification of any external counseling services that may be available;
- Written notification of options for changing academic and work site situations, if reasonable;
- Written notification of an avenue for appeal.
- The hearing will include opening statements, each party's evidence and witnesses, and closing statements. Students are permitted to be present during the disciplinary hearing (except during deliberations of the panel). Students are permitted to make statements, present witnesses and present evidence during the hearing which has been previously collected and approved during the investigation process. Witnesses and evidence need to be directly related to the incident. The standard of proof used in SCTC Title IX Hearings is the preponderance of the evidence, which means the determination to be made, is whether it is more likely than not a violation occurred. This is significantly different than proof beyond a reasonable doubt, which is required for a criminal prosecution. In-person hearings are preferred, but videoconference hearings may be conducted if the hearing officer determines that the health, safety and welfare of all participants is better served by the alternate hearing mode.
- Saginaw Chippewa Tribal College's grievance process provides for a live hearing.

Outcome

If it is determined under the preponderance of evidence standard (more likely than not to have occurred) that the respondent is not responsible for a sex discrimination or sexual harassment policy violation the complaint will be dismissed.

If it is determined under the preponderance of evidence standard (more likely than not to have occurred) that the respondent is responsible for a sexual harassment policy violation the following sanctions will be considered. The listing of sanctions below is not intended to be exclusive; in addition, sanctions may be imposed singularly or in combination when a violation of this policy is found.

Sexual discrimination (includes gender discrimination) involves treating someone (an applicant or employee) unfavorably because of that person's sex, including the person's sexual orientation, gender identity, or pregnancy.

Gender discrimination is when someone is treated unequally or disadvantageously based on their gender but not necessarily in a sexual nature. This includes harassment/discrimination based on sex, gender identity, or gender expression. Gender discrimination is often rooted in preconceived, false societal and personal notions about what gender is, how gender "should" look, or how gender is performed. For example, many people inaccurately believe that someone's biological sex always determines their gender and therefore their attitudes and behaviors.

Discrimination against an individual because of gender identity, including transgender status, or because of sexual orientation is discrimination because of sex may include the following sanctions of the student(s) found responsible.

- Restriction – A limitation on a student's privileges for a period of time and may include but not be limited to the denial of the use of facilities or access to parts of campus, denial of the right to represent SCTC, or denial of participation in extracurricular activities.
- Service Project – Community service or an education class or project beneficial to the individual and campus or community.
- Probation Level I – A specified period of time during which the student is placed on formal notice that he/she is not in good social standing with SCTC and that further violations of regulations will subject him/her to suspension or expulsion from the SCTC.
- Suspension – If warranted by the severity of the incident, exclusion from enrollment in classes and other privileges or activities for a definite period of time not to exceed three years and until the conditions which are set forth in the hearing outcome letter are met. Students who are suspended from SCTC are not permitted on campus or in campus buildings, facilities or activities at any time for any reason during the period of suspension, unless otherwise directed by the Dean of Students. Conditions to conclude a suspension and reinstatement process will be stated in the written notification. Notation on the transcript is not made; however, a permanent record of the action is maintained in the student's record. Any refund of tuition or fees will be subject to SCTC's normal withdrawal policy.
- Expulsion – Termination of student status for an indefinite period. The conditions for readmission, if any, shall be stated in the hearing outcome letter. Notation on the transcript is not made; however, a permanent record of the action is maintained in the student's record. Any refund of tuition or fees will be subject to SCTC's normal

withdrawal policy. Expulsion should be reserved and used only in cases involving the most severe instances of misconduct.

Sexual Harassment may include the following sanctions on the student(s) found responsible.

- **Restriction** – A limitation on a student’s privileges for a period of time and may include but not be limited to the denial of the use of facilities or access to parts of campus, denial of the right to represent SCTC.
- **Service Project** – Community service or an education class or project beneficial to the individual and campus or community.
- **Behavioral Change Requirement** – Required activities including but not limited to, seeking academic counseling, substance abuse assessment, decision making class, writing a reflection paper, etc.
- **Probation Level II** – Adds to Level I the stipulation that students are prohibited from participating in any extracurricular activities not directly associated with academics (e.g., student organizations/clubs/associations, leadership positions within the institution or other organizations). Students must apply to get off Conduct Probation Level II by submitting documentation of their significant proactive efforts to become good citizens of the community and engage in responsible, productive behavior.
- **Suspension** – If warranted by the severity of the incident, exclusion from enrollment in classes and other privileges or activities for a definite period of time not to exceed three years and until the conditions which are set forth in the hearing outcome letter are met. Students who are suspended from SCTC are not permitted on campus or in campus buildings, facilities or activities at any time for any reason during the period of suspension, unless otherwise directed by the Dean of Students. Conditions to conclude a suspension and reinstatement process will be stated in the written notification. Notation on the transcript is not made; however, a permanent record of the action is maintained in the student’s record. Any refund of tuition or fees will be subject to SCTC's normal withdrawal policy.
- **Expulsion** – Termination of student status for an indefinite period. The conditions for readmission, if any, shall be stated in the hearing outcome letter. Notation on the transcript is not made; however, a permanent record of the action is maintained in the student’s record. Any refund of tuition or fees will be subject to SCTC's normal withdrawal policy. Expulsion should be reserved and used only in cases involving the most severe instances of misconduct.

Sexual Violence may include the following sanction on the student(s) found responsible.

- **Expulsion** – Termination of student status for an indefinite period. The conditions for readmission, if any, shall be stated in the hearing outcome letter. Notation on the transcript is not made; however, a permanent record of the action is maintained in the student’s record. Any refund of tuition or fees will be subject to SCTC's normal withdrawal policy. Expulsion should be reserved and used only in cases involving the most severe instances of misconduct.

Both parties will be notified of the outcome in writing by certified mail or other agreed upon form of notice within five business days after the hearing at the same time. Both parties have the

right to appeal the decision reached through the hearing proceedings within five days after the hearing.

Employee Sanctions:

Discipline will ordinarily follow progressive steps, except that the college reserves the right to add to, repeat, skip or omit steps as it deems appropriate. In the case of termination, the President has sole authority to terminate an employee. Sanctions for faculty and staff members can include counseling or training, written warning, financial sanction, unpaid leave of absence, suspension, demotion or termination in accordance with the employment policies governing the specific employee.

Appeal Procedures

An appeal is not a new hearing, but is a review of the record of the original hearing. It serves as a procedural safeguard for the student. The burden of proof shifts from SCTC to the student(s) found responsible for the policy violation. The student or employee must show one or more of the listed grounds for an appeal.

- A. Appeals must be submitted in writing to the Saginaw Chippewa Tribal College President within five (5) SCTC working/school days of receiving the decision. Failure to file an appeal within the prescribed time constitutes a waiver of any right to an appeal.
- B. The appeal must cite at least one of the following criteria as the reason for appeal and include supporting argument(s):
 - Procedural irregularity that affected the outcome of the matter;
 - 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; and
 - The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.
- C. SCTC's President will review the record of the original hearing, including documentary evidence. It is SCTC President's discretion to convert any sanction imposed to a lesser sanction, to rescind any previous sanction, or to return a recommended sanction to the original hearing committee for review/or reconsideration. If there is new evidence (unavailable at the time of the hearing through no fault of the parties) which is believed to substantially affect the outcome, or evidence presented at the previous hearing(s) was "insufficient" to justify a decision against the student or group, or a finding that a substantial procedural error resulting in prejudice occurred, the matter may be remanded to either a rehearing of the entire matter or reconsideration of specific issues. If remanded to the original hearing committee, either or both students may appeal the committee's decision to the President of SCTC and the procedures set out above shall control the appeal.

D. The final decision will be communicated in writing by SCTC’s President to the appealing student(s). The decision will be communicated within ten (10) working/school days of receiving the written recommendation. Both parties will be notified of the final outcome of the appeal.

E. The decision of the Saginaw Chippewa Tribal College President on appeal shall be final.

SCTC Officers and Designees

The designation of an SCTC official responsible for prescribed actions shall automatically include the official’s designee in instances where an official is unable, unavailable or has concluded that the official may have a conflict of interest that causes the official to recuse from involvement in the matter. The official’s designee shall have the same authority as the official in matters involving this policy.

Recordkeeping Protocol

SCTC will document all reports and complaints of sex discrimination and provide copies of those reports to the Title IX Coordinator. SCTC Title IX Office will maintain a secured electronic file system of all Title IX cases, reports, and complaints by academic year. The cases will include all information related to the individual case, which includes but is not limited to the initial complaint, letters sent to all parties, response from the respondent, immediate assistance, investigation notes, mediation agreement if applicable, notice of a hearing, committee selection, hearing notes, hearing decision, written notice of the outcome, and any recordings made of the hearing or in the course of the investigation. The time period to maintain the case records will be no less than seven (7) years from the date of SCTC’s final action or decision (whether through report of the investigation, mediation, or hearing). The confidential reporting of the number of incidents and types will be sent to SCTC’s Dean of Research for the preparation of the Annual Crimes Report.

Prevention and Education

A. Education

SCTC requires all employees to take the following educational- training courses on an annual basis. Employees may be required to be recertified on demand. Failure to have a certification of this required training may result in appropriate disciplinary action. Additional in-person trainings are also offered periodically and on request.

B. Bystander Intervention

If you witness a policy violation, or behaviors that may lead to a policy violation, there are a variety of things you can do as a bystander:

- Divert the intended victim (e.g. “help me out of here; I don’t feel well”)
- Distract the perpetrator (e.g. “looks like your car is being towed”)
- Delegate to a person of authority (e.g. if at a nightclub let the bartender/bouncer know of the situation)

- Direct, confront the perpetrator (e.g. “don’t speak to him/her in that manner; you are going to get yourself into trouble”)

C. Risk Reduction Tips

Risk reduction tips can often take a victim-blaming tone, even unintentionally. With no intention to blame victims, and with recognition that only those who commit sexual violence are responsible for those actions, these suggestions may nevertheless help you reduce your risk of experiencing a non-consensual sexual act.

- Make your limits known as early as possible.
- Be aware of your alcohol intake. Take affirmative responsibility for your alcohol intake/drug use and acknowledge that alcohol/drugs lower your sexual inhibitions and may make you vulnerable to someone who views a drunk or high person as a sexual opportunity.
- Take care of your friends or colleagues and ask that they take care of you.

D. Potential Aggressor

If you find yourself in the position of being the initiator of sexual behavior, you owe sexual respect to your potential partner. These suggestions may help you reduce your risk for being accused of sexual misconduct:

- Clearly communicate your intentions to your sexual partner and give them a chance to clearly relate their intentions to you.
- Understand and respect personal boundaries.
- DON’T MAKE ASSUMPTIONS about consent; about someone’s sexual availability; about whether they are attracted to you; about how far you can go; or about whether they are physically and/or mentally able to consent.
- If there are any questions or ambiguity, then you DO NOT have consent.

Mixed messages from your partner are a clear indication that you should stop, defuse any sexual tension and communicate better. You may be misreading them. You must respect the timeline for sexual behaviors with which they are comfortable.

- Don’t take advantage of someone’s drunkenness or drugged state, even if they did it to themselves.
- Realize that your potential partner could be intimidated by you, or fearful. You may have a power advantage simply because of your gender or size.
- Don’t abuse that power. Understand that consent to one form of sexual behavior does not automatically imply consent to other forms of sexual behavior.
- Silence and passivity cannot be interpreted as an indication of consent.
- Read your potential partner carefully, paying attention to verbal and non-verbal communication and body language.

Training

Training on sexual misconduct: discrimination, harassment, and violence is included in SCTC’s education program.

In-person training for student groups and students will be conducted through a variety of presentations, student orientation, and other meetings. In-person training for Active Bystander Intervention skills may include: On-going campus campaigns and information at a variety of events concerning the policy and appropriate behaviors, including Bystander Intervention. Informational website and brochures devoted to educating students will be presented at prevention workshops. When in-person training is neither practical nor safe, alternative modes of training shall be utilized.

Mandatory training for employees will be provided through In-person training on sexual misconduct: discrimination, harassment, and violence and mandatory reporting through new employee orientations and other periodic training opportunities and upon request. In-person training for Active Bystander Intervention skills may include: ongoing campus campaigns and information at a variety of events, concerning the policy and appropriate behaviors, including Bystander Intervention. Informational website and brochures devoted to educating employees.

Available Resources to all of the SCTC community:

- National Suicide Prevention Lifeline - 1.800.273.8255
- Listening Ear - 989.775.1525
- SCIT Behavioral Health Crisis after Hours– 989.775.4700 (Tribal Police: ask for after-hours Behavioral Health line.
- Veterans Crisis Line – 1.800.273.8255
- National Domestic Violence Hotline - 1-800-799-7233 (SAFE)
- Rape, Abuse & Incest National Network Hotline - 1-800-656-4673 (HOPE)
- Communication Services for the Deaf (TTY) - 1-800-252-1017 (TTY)
- Communication Services for the Deaf (Voice) - 1-866-845-7445 (Voice)

Retaliation

The Federal civil rights laws, including Title IX, make it unlawful to retaliate against an individual for the purpose of interfering with any right or privilege secured by these laws. This means that if an individual brings concerns about possible civil rights problems to a school's attention, including publicly opposing sexual harassment or filing a sexual harassment complaint with the school or any State or Federal agency, it is unlawful for the school to retaliate against that individual for doing so. It is also unlawful to retaliate against an individual because he or she testified, or participated in any manner, in an OCR or school's investigation or proceeding. Therefore, if a student, parent, teacher, sponsor coach, or other individual complains formally or informally about sexual harassment or participates in an OCR or school's investigation or proceedings related to sexual harassment, the school is prohibited from retaliating (including intimidating, threatening, coercing, or in any way discriminating against the individual) because of the individual's complaint or participation. Individuals who, apart from official associations with SCTC engage in retaliatory activities will also be subject to SCTC's policies insofar as they are applicable to third party actions.

SCTC will take steps to prevent retaliation against a student who filed a complaint either on his or her own behalf or on behalf of another student, or against those who provided information as

witnesses. Complaints of retaliation will follow the same process of investigation, hearing, and appeal.

If it is determined under the preponderance of evidentiary standard (more likely than not to have occurred) that a student is responsible for retaliation the following sanction will be imposed.

- Suspension – Exclusion from enrollment in classes and other privileges or activities for a definite period of time not to exceed three years and until the conditions which are set forth in the hearing outcome letter are met. Students who are suspended from SCTC are not permitted on campus or in campus buildings, facilities or activities at any time for any reason during the period of suspension, unless otherwise directed by the Dean of Students. Conditions to conclude a suspension and reinstatement process will be stated in the written notification. Notation on the transcript is not made; however, a permanent record of the action is maintained in the student's record. Any refund of tuition or fees will be subject to SCTC's normal withdrawal policy.

Free Speech and Academic Freedom

Members of the SCTC community enjoy significant free speech protections guaranteed by the First Amendment of the United States Constitution. This policy is intended to protect members of the SCTC community from discrimination and is not designed to regulate protected speech. No provision of this policy shall be interpreted to prohibit conduct that is legitimately related to course content, teaching methods, scholarship, or public commentary of an individual faculty member or the educational, political, artistic or literary expression of students in classrooms and public forums. However, freedom of speech and academic freedom are not limitless and do not protect speech or expressive conduct that violates federal or state anti-discrimination laws.

Availability of other Complaint Procedures

In addition to seeking criminal charges through local law enforcement, members of the SCTC community may also file complaints with the following entities regardless of whether they choose to file a complaint under this procedure:

**U.S. Department of Education
Office for Civil Rights
Lyndon Baines Johnson Department of Education Bldg
400 Maryland Avenue, SW
Washington, DC 20202-1100**

**Telephone: 800-421-3481
FAX: 202-453-6012; TDD: 800-877-8339
Email: OCR@ed.gov**

The OCR office for Michigan is located at:

**Cleveland Office
Office for Civil Rights**

U.S. Department of Education
1350 Euclid Avenue, Suite 325
Cleveland, OH 44115-1812

Telephone: 216-522-4970
FAX: 216-522-2573; TDD: 800-877-8339
Email: OCR.Cleveland@ed.gov

Equal Employment Opportunity Commission Michigan:

Lance Bettison, EEO Officer

Lewis-Cass Bldg., 1st Floor

320 S. Walnut St.

Lansing, MI. 48913

Tel: 269-337-3744

Fax: 517-373-7123

Email: bettisonl@michigan.gov

National:

Washington D.C.: 1-800-669-4000, Eeoc.gov/contact/