

Supervisory Symposium



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FALL 2021

OFFICE OF HUMAN RESOURCES * SOUTH TEXAS COLLEGE

House Keeping & Goals

Please silence phones

- The role of Employee Relations
- Clear up misconceptions and provide training
- Be a resource to all employees
- Examples are not unique to any department or person
- Questions are welcome!

Note: This information is provided as guidance and best practices for and regarding employees of the College, not independent contractors or temporary agency employees. To be sure, such information can be incorporated, however, please consult with your chain-of-command or Human Resources for appropriate guidance. Further scenarios are case specific with unique fact-patterns, and answers are provided within a general, reasonable person framework.

Office of Human Resources

Benefits

- HR_Benefits, x3804
 - Health Insurance
 - Retirement
 - Assist with ADA, FMLA, Workers Comp and other accommodations

Payroll

- HR_Payroll, x3804
- Direct Deposit, Address Changes, Name Changes

• Employee Relations

- HR_EmployeeRelations, x3805
- To provide guidance to all employees regarding policies and procedures of the College
- To conduct certain investigations and reviews
- Other functions, including but not limited, TWC claims, background checks, etc.

• Staffing

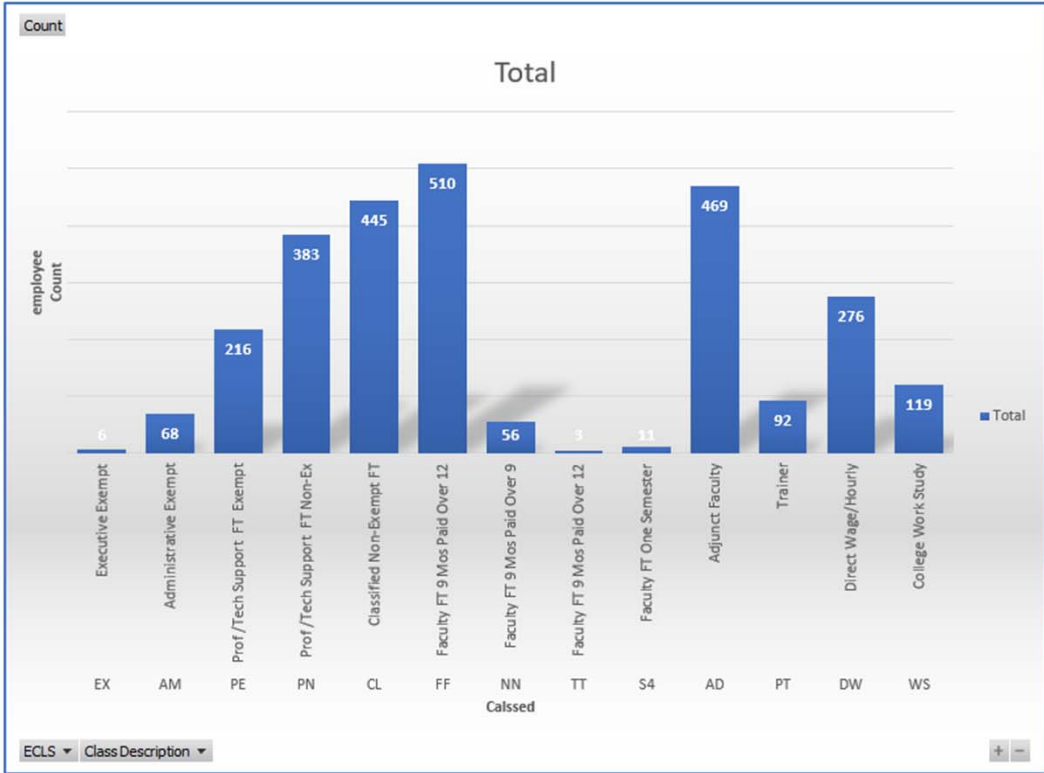
- HR_Staffing, x3811
- Hiring Committees, Job Descriptions, Postings

Role of Employee Relations

- To provide guidance to all employees regarding policies and procedures of the College
- To review for potential liabilities regarding disciplinary actions, HR does not to decide on the action
- To assist with preparation of appropriate documentation
- To conduct certain investigations and reviews
- Other functions, including but not limited, TWC claims, background checks, etc.

Fiscal Year 2021

Classes	Class Description	Count
EX	Executive Exempt	6
AM	Administrative Exempt	68
PE	Prof /Tech Support FT Exempt	216
PN	Prof /Tech Support FT Non-Ex	383
CL	Classified Non-Exempt FT	445
FF	Faculty FT 9 Mos Paid Over 12	510
NN	Faculty FT 9 Mos Paid Over 9	56
TT	Faculty FT 9 Mos Paid Over 12	3
S4	Faculty FT One Semester	11
AD	Adjunct Faculty	469
PT	Trainer	92
DW	Direct Wage/Hourly	276
WS	College Work Study	119
Grand Total		2654



2654 Total
1,049 Faculty

Today's Objectives

Topics/Sections

- Expectations, Communication and Diversity
- Top 6 Workplace Issues
- Job Descriptions & Performance Appraisals
- Disciplinary Action
- Title IX
- Documentation 101
- Complaints & Investigations
- Professionalism
- Question & Answers

We will be talking about Sexual Assault and other sensitive issues.

Do you know what's expected of you?

Expect changes & re-evaluate current relationships

Gossip

Feelings of favoritism

Resentment

New networking opportunities

Becoming a mentor

Empowered to take action

Addressing issues, protecting employees and College



Employee and Supervisor Roles

➤ Employee

Right to a safe and healthy work environment

Right to equal employment opportunities

Rights provided under the [Family and Medical Leave Act](#), Federal Child Labor Laws and ADA

➤ Supervisor

Provides discretion in performing their duties

- Scheduling
- Goal-setting
- Project Management
- In matters of policy and procedure
- Especially disciplinary action and determination of such action

Expectations

- Understand South Texas College policies and procedures
- Treat Employees Fair, Consistent, and Equitably
 - Job descriptions and performance appraisals
- Prevent liability issues by reporting, training, and addressing conduct and performance issues
- Understand your job and the jobs of direct reports
- Goal Setting and Benchmarking

See Supplemental!

Communication: Supervisor to Employee

- Be Pro-Active, Not Reactionary
- Get to know your employees and *how they learn*
- Snacks! Birthday or work anniversary Cards or emails
- Say please, thank you and you're welcome
 - Just being polite makes a world of difference!
- Positive reinforcement, recognition, reward
- Get feedback from your team
- Trainings/Conferences
- Be consistent
- Identify and address inappropriate behavior and/or performance issues as soon as possible

Helpful Links:

Know your conscious and unconscious biases and mitigate them

➤ Harvard Implicit Bias Test:

<https://implicit.harvard.edu/implicit/takeatest.html>

Personality Types

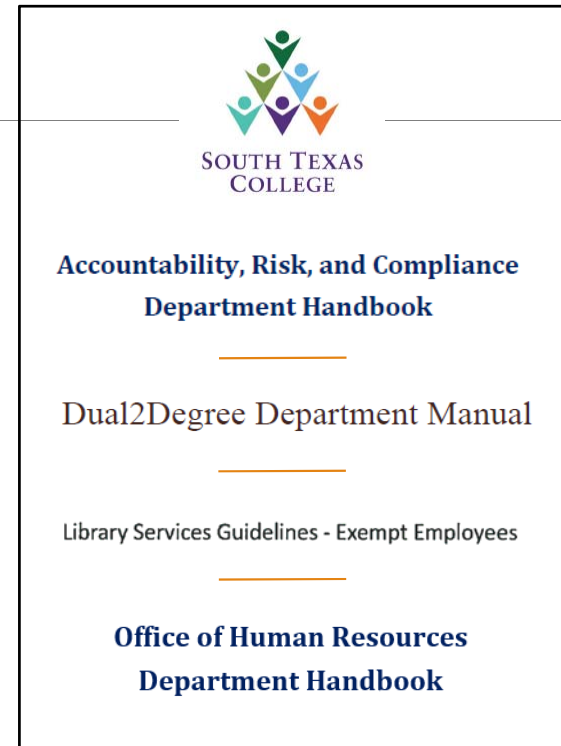
Take our Personality Test and get a “freakishly accurate” description of who you are and why you do things the way you do.

➤ <https://www.16personalities.com/>

Care, Skill, Prudence, Diligence!

Communication: Supervisor to Supervisor

- Be United
- Prevents "Supervisor Shopping"
- Meet & decide on procedures
- On-Call Procedures
- Phone messages, etc.
- Have written procedures (departmental)
- Evaluate your leadership style



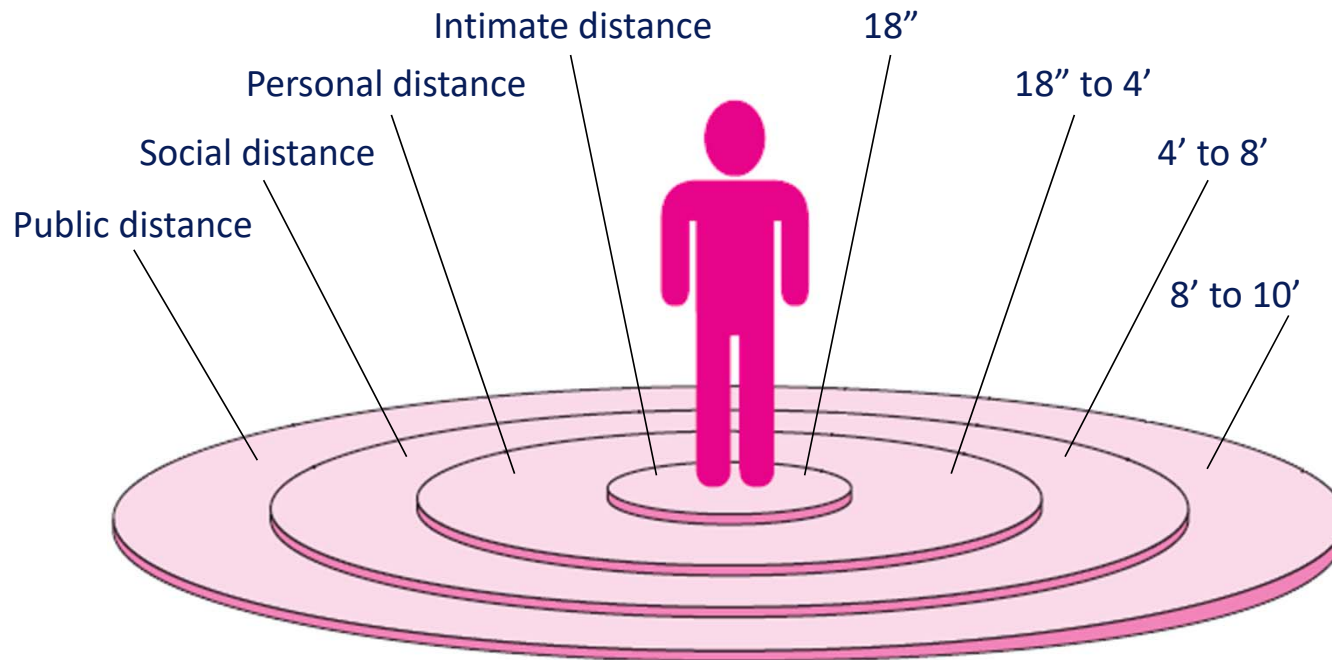
Exercise care, skill, prudence, & diligence

Inter-Office Communication

- Hold departmental meetings
- Get out of the office and visit with employees
 - Open Door & Open Floor
- Send Policy Updates
- Job-related expectations communicated
 - Are those *expectations* understood?
- Job description and duties
- Personal space v. work space
- Fair, consistent, equitable treatment among all employees

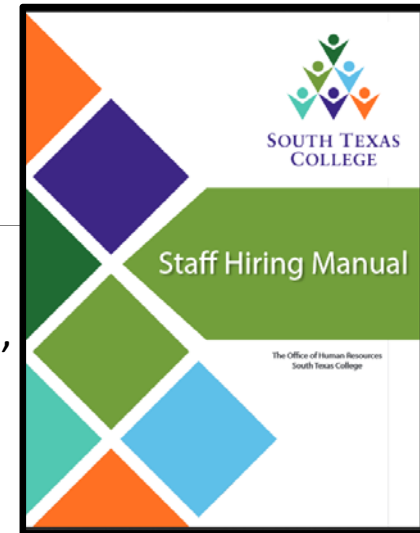


Personal Space in the U.S.



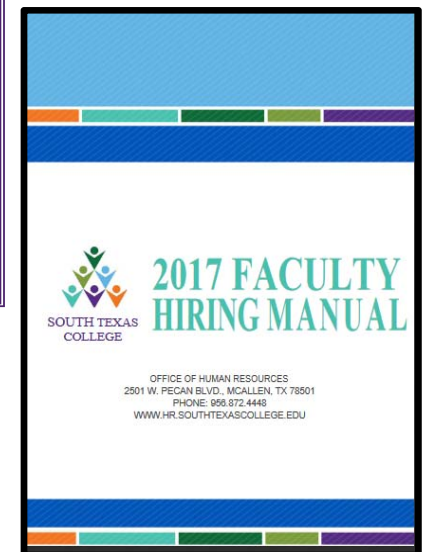
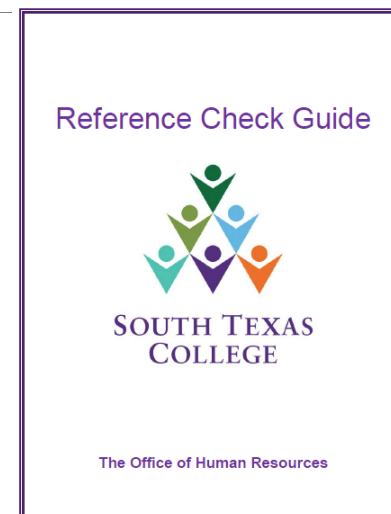
Hiring Committees: Diversity in the Workplace

- Diverse Workplace = Smarter organization
- Recruit and recommend qualified minorities, women, persons with disabilities, and veterans
 - Job Elephant
- Include training programs, outreach efforts, and other positive steps
- South Texas College allows employees to continue education at the College and educational reimbursement opportunities with certain eligibility guidelines
- South Texas College is actively creating a more diverse workforce
- Ex. Nursing (more male instructors and students)
- Ex. Career and Technology Education (more female instructors and students)



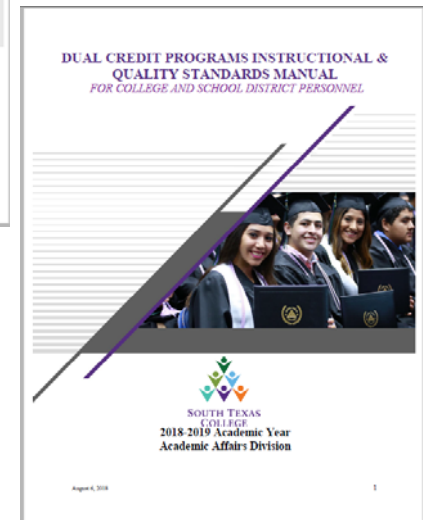
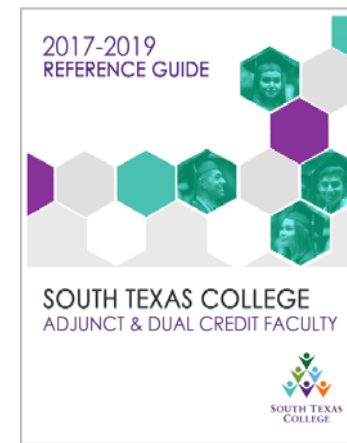
Policy #4205 Equal Education and Employment Opportunities

- The College does not discriminate on the basis of race, color, national origin, religion, age, sex, sexual orientation, gender, gender identity, disability, genetic information, or veteran status
- Qualification guidelines for all positions will be published by the Office of Human Resources and shall be applied consistently and fairly to all applicants.



Policy #4205 Equal Education and Employment Opportunities, cont'd

- Title IX Statement
- Age Discrimination Employment Act
 - 40 years and older protected under this act
- Section 504 of the Rehabilitation Act of 1973 /American with Disabilities Act
 - No discrimination on the basis of a disability in the areas of admissions, accessibility, treatment, and employment



ADA-Responsibilities of Employee and Supervisor

Should accommodations be put in place, they are to support the employee in the performance of the job duties and responsibilities. Please be advised that a supervisor should evaluate the job performance of an employee with a disability the same way it evaluates any other employee's performance, should not lower or change efficiency and production standards, or exempt or excuse repeated tardiness or absences. For more information please visit: <https://www.eeoc.gov/facts/performance-conduct.html> or contact XYZ.

Take Aways

- ✓ Fair, consistent, and equitable treatment among employees
- ✓ Creating a safe and collegial workplace
- ✓ Addressing issues quickly
- ✓ Building and promoting a diverse workforce
- ✓ Communication



Top 6 Workplace Issues

1. Understanding Employment Status
 - a. FLSA Status: Exempt and Non-Exempt
 - b. Contractors and Vendors
2. Absenteeism, Tardiness, and Unauthorized Absence
3. Scheduling, Work Breaks, and Lunch
4. Social Media/Information Resources
5. Dress Code
6. Disciplinary Process



Non-Exempt and Exempt-- What is the difference?

➤ Non-Exempt

Could earn a salary or hourly wage

- Professional/Technical or Classified

Entitled to over-time pay at 1.5 times rate if worked over 40 hours in one week

Most must be paid Federal minimum wage (\$7.25 in 2018) for regular time

Is hired for the time they will be expected to put in carrying out specific instructions in predetermined sequences that have been designed by exempt employees

Generally, nonexempt employees receive more protection under federal law than exempt employees

Policy 4520 and Fair Labor Standards Act--US Law

➤ Exempt

Exempt employees are not treated as hourly employees

Are not paid overtime, regardless of how many hours they work over 40

Must be paid at least \$23,600 a year

Be paid on a salary basis

Perform exempt job duties

- Supervise, office work, authority to hire and recommend to terminate, specialized knowledge or in specialized field

Temporary Agency Employees and Independent Contractors

Neither are employees of the College
Do not initiate discipline

Temporary Agency employees:

- ✓ Contact Ernest Palma (x5012)
- ✓ Consider limited assignment date
- ✓ Revise end date
- ✓ Should not be more than 2 years

Independent Contractors:

- ✓ Do not give office space, keys, or track hours
- ✓ “Level of control”
- ✓ 21 point checklist review with Purchasing before requesting

Absenteeism, Tardiness, & Unauthorized Absence

- Not regarding approved vacation leave or requests
- An employer always has the right to ask an employee to explain the reason for an absence
 - i.e., jury duty, court appearances, doctor visits
- Supervisors should not insist on specific medical information or similar items (receipts, etc.)
- Employee refusal to explain reason for missing work entitles the employer to treat the absence as unauthorized for that reason alone.
- Anytime an employee claims the need to miss work due to a medical condition and there are questions, please refer to Benefits at the Office of Human Resources
- The employer must decide whether documentation will be required for any medical absence, or just for those during black-out dates

Absenteeism, Tardiness, & Unauthorized Absence cont.

- Achieve a sensible balance
- Most departments do not require an actual doctor's note for simple one- or two-day absences for things like 24-hour "bugs"
- Review for patterns of leave (Monday/Friday absences, leaving early, etc.)
- If unauthorized absence, can be **docked** without pay
- Proper notification of management if you are going to be either absent or tardy, unless a verifiable emergency makes it impossible for you to do so
- Medically excessive absences can be a job performance issue

Relevant polices
#4308 Sick Leave
#4316 Leave without pay
#4510 Hours of Work
#4511 Unauthorized Absence

Policy 4510 Hours of Work

“...When necessary, campus offices or departments may be kept open during hours and days outside the typical 8:00 a.m. to 5:00 p.m. Monday through Friday work schedule.

The supervising administrator is responsible for scheduling the 40 hours per week schedule based on the needs of students, the office or department. “

- ***Supervisor responsible for scheduling work hours***
- ***Employee responsible for adhering to schedule***

Scheduling, Work Breaks and Lunch

Supervisor has discretion for scheduling and flex-time

South Texas College requires Overtime be approved 30 days PRIOR

No Texas or federal law requires advance notice of overtime or schedule changes

- Good idea to give as much advance notice as possible when changing schedules

Black out dates/times are permissible

Work breaks not mandated by state or federal law

- Except for certain occupations
- Except for work-studies
- Except for certain cases (i.e., expression of milk)

Relevant polices:
#4321 Rights of Nursing Mothers to Express
Breast Milk in the Workplace

Scheduling, Work Breaks and Lunch cont.

Lunch is defined as 30 minutes or longer for the purpose of eating a meal

Employee must be "fully relieved of duties" during the meal break

- If employee is answering phones, filing, or otherwise working while eating, the "break" is counted as regular work time.

Working during lunch (i.e., at your desk) is compensable

- Requires supervisor approval
- *Need to get paid if worked*

Supervisor can adjust schedule to compensate for working lunches and authorized or unauthorized work periods

Social Media/Information Resources

Relevant Polices

➤ #4714 Acceptable Use of Information Resources

◦ 2. Prohibited Uses of College Information Resources

- i) Use of information resources for personal profit, commercial reasons, non-College fundraising, political campaigning or any illegal activity, with the exception of activities sponsored by the College.

➤ #4901 Standards of Conduct

- 5. Using or misappropriating work time or College property or resources for personal gain or benefit;
- 13. Neglect of duty, cyberloafing, loitering or wasting time during working hours; or failure to meet a reasonable and objective measure of efficiency and productivity;

Personal cell phones on the network? Homework? Shopping?

Dress Code

- STC has no policy on dress code
- Departments/Divisions may have dress codes
- Consistent amongst male and female employees
- HR Assistance

NOTE: Temporary agency employees are not necessarily subject to dress code

Disciplinary Process

- Unaddressed conduct or performance issues
- Deferring disciplinary action to HR
 - Not HRs role or scope
- Disproportionate or inequitable treatment among employees
- Use “thank you emails”
- More to follow

Take Aways

- ✓ Options are available to address issues
- ✓ Much discretion given to supervisors
- ✓ Don't be a jerk
- ✓ Don't be a lazy supervisor

Job Descriptions and Performance Appraisals

Five key documents arise most frequently, especially in cases involving an alleged adverse employment action: the job description; the handbook; performance evaluations; disciplinary documents; and responses to administrative charges.

--Five Documents Sure To Appear In Your Lawsuit

<https://www.fisherphillips.com/resources-newsletters-article-five-documents-sure-to-appear-in-your-lawsuit>

Job Descriptions

Employees must know job expectations and meet them in accordance to job description, procedures, and policies.

Supervisors must ensure the accuracy of the job description, be clear in communicating the expectations, while being diligent, fair, and consistent.

Job description should reflect the essential duties and responsibilities.

- Position not the person.
- First thing asked for in disability, worker's comp., FMLA, EEOC, etc.

Review and update job descriptions prior to issuing performance appraisals.

Best Practices - Job Description

Meet with employee to review job description.

- Give notice, send invite.
- Not a secret.

Revise duties and responsibilities.

- Essential duties & functions are accurate.

Collaborate with Human Resources on revisions and prior to issuance.

- Contact Staffing personnel.



Performance Appraisals

Measures the extent to which the employee's performance meets the requirements of position.

- Communication.
- Feedback should be continuous throughout the year.
- Self-Evaluations (optional).

Establishes goals for the future.

Common performance appraisal issues include, but are not limited to:

- Attendance, unprofessional behavior or misconduct associated with the work.
- Different Expectations.

Performance appraisals are expected to be fair, accurate, and an objective reflection of the employee's performance.



Best Practices - Performance Appraisals

Is the correct appraisal form for the appropriate position/employee?

Ensure all fields in the appraisal form are completed.

Comments for the ratings.

- Be factual, objective.
- Be open-minded and constructive.

Write comments in the spaces provided.

- Don't use white-out.
- If nothing, write "N/A"

Provide/Request signed copy to the employee by email or at meeting.



Take Aways

- ✓ Review & update job descriptions.
- ✓ Not an adversarial process.
- ✓ Not a secret.
- ✓ Be factual and honest.
- ✓ Constructive process.
- ✓ Collaborative process

Disciplinary Action

WHEN THINGS GO WRONG

Before Initiating Discipline

- Reason(s) for the disciplinary action job related?
 - Personalities?
 - Does it impair work unit?
- Do you have the right information?
 - *Business Office procedures, travel limitations, etc.*
- Previous efforts
- Evidence and Documentation
- Are you focusing on the facts not on opinions?
- Job description/expectations understood
- Get guidance from *your supervisor*
- *Advise the employee that action may be taken*

Disciplinary Action

- Verbal Warnings
- Written Reprimands
- Suspension with pay
- Suspension without pay
- Performance & Conduct Improvement Plan
- Recommendation for Termination

Consider: severity, frequency, duration of employment, employee conduct, effect of action, and all other extenuating circumstances

Policy 4911 Disciplinary Procedures

Copy provided to Employee. Employee has 3 business days to file written response. Will be placed in personnel file. HR

Director may alter, approve, or disapprove such disciplinary action.

Copy provided to employee. Decision is final.

Recommendation for Termination

- The President shall receive the recommendation for termination:
 - review the disciplinary action to determine whether additional information needs to be presented and
 - if the disciplinary action is an appropriate management response to the employee conduct.
- The President may modify, approve or disapprove such action.
- The decision is final.

Policy 4911 Disciplinary Procedures

Common Questions

- How many times?
- Departmental warnings vs. written reprimands
- How long can suspension be?
- I think Employee A is....but....
 - Run reports on all
- Is there a checklist?

Take Aways

- ✓ Address conduct and performance issues.
- ✓ Consider the options.
- ✓ Advise the employee.
- ✓ Document.
- ✓ Consult with HR.

The 'Confusing' Case of UNC's Title IX Violations

Harvard Still Facing Three Federal Probes Into Its Compliance With Title IX

Texas A&M changes protocol for Title IX investigations

Feds investigate alleged Title IX violations by Eastern Michigan University

Title IX investigation recommends changes at UC Medical Center after misconduct claims

Title IX

Title IX

Policy #4216 Sex Discrimination, Sexual Harassment, Domestic Violence, Dating Violence, Stalking and Retaliation Prohibited

Title IX of the Education Amendments 1972 (20 U.S.C. s1681 et seq.) and it's implementing regulations, 34 C.F.R. Part 106 (Title IX),

- *“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”*

Duty to report

Responsible Employees p. 11 of 13

Obligation to notify regarding confidentiality

STC Title IX Webpage

- <http://www.southtexascollege.edu/about/notices/title-ix.html>

South Texas College Policy #4216

Sex Discrimination, Sexual Harassment, Domestic Violence, Dating Violence, Stalking and Retaliation Prohibited

Pregnancy and Parenting

Sexual Misconduct

Sexual Harassment

Sexual Violence

Retaliation

Gender Based Discrimination

Gender Based Sexual Harassment

Intimate Partner (Dating/Domestic) Violence

Stalking

Pregnancy and Parenting

- Title IX makes it illegal to discriminate because of sex, which includes discrimination on the basis of pregnancy, childbirth, false pregnancy, miscarriage, abortion, or related conditions, including recovery.
- Title IX also ensures the right to take medically necessary leave and to be free of harassment, intimidation, or other discrimination because of pregnancy-related conditions.

Source: [*The Pregnant Scholar*](#)



Not a free pass
Applies to fathers

Softball Scenario

- 34 CFR Sec. 106 states that it is illegal to prohibit participation or exclude on the basis of pregnancy.
- Participation in special programs must be voluntary.
- Treatment towards pregnancy should be equivalent to treatment of other medical conditions.
- Pregnant students are not required to provide proof of Dr. permission unless the same requirement applies to all other students receiving treatment.



Pregnancy and Parenting Students & Employees

South Texas College Counseling and Disability Services Contact Information:

Santa E. Peña, Director of Counseling

santaep@southtexascollege.edu

(956) 872-2140

Perla Y. Leo, Coordinator of Student Disability Services

ppena_4867@southtexascollege.edu

(956) 872-2165

South Texas College Office of Human Resources Contact Information:

Karina Garza, Benefits and Payroll Manager

kgarza36@southtexascollege.edu

(956) 872-3804



Minors

- Texas law says anyone who thinks a child, or person 65 years or older, or an adult with disabilities is being abused, neglected, or exploited must report it to Department of Family and Protective Services (DFPS).
- Call your local law enforcement agency or 911 immediately if you have an emergency.
- Covered in South Texas College Employee Handbook

[Source: Texas Department of Family and Protective Services](#)

Sexual Harassment & Misconduct

Policy 4216 Sex Discrimination, Sexual Harassment, Domestic Violence, Dating Violence, Stalking and Retaliation Prohibited

- What does this mean as it relates to Title IX?
- Scenarios
 - Catcalling
 - Interpersonal Violence (Domestic Violence)
 - Sexual Assault
- Once you begin asking questions, you become an investigator.

So someone wants to tell me ...

Listen

To what they have to say

Support

Them, but tell them of your responsibility

Refer

Them to HR or Counseling

Connect

Them by phone or visit

Disability & Counseling Services (956) 872-2173

Human Resources (956) 872-3805

Additional info at end of this section

You are liable!

HB1735/SB212

Relating to a reporting requirement for certain incidents of sexual harassment, sexual assault, dating violence, or stalking at certain public and private institutions of higher education; creating a criminal offense; authorizing administrative penalties.

SB 212 would require employees of Texas postsecondary institutions to report certain sexually related incidents against a student or employee to the institution's Title IX coordinator. The bill would create an offense for failure to report an incident or making a false report.

Here is the analysis:

<https://hro.house.texas.gov/pdf/ba86r/sb0212.pdf#navpanes=0>

(this may not include floor amendments)



HB1735/SB 212

Texas 86th Legislative Session

- If witnessed or received information about an incident that the **employee reasonably believed constituted *sexual harassment, sexual assault, dating violence, or stalking against a student or employee*** to report the incident to the institution's **Title IX coordinator or deputy coordinator**.
- The **report** would have to **include all information** concerning the incident **known** to the reporting person that was **relevant** to the **investigation** and, if applicable, remedy of the incident, including whether an alleged victim had expressed a desire for confidentiality. *Counselors and confidential employees would have to report all except "that which would violate a student's expectation of privacy"*
- Title IX Coordinator and THECB reporting requirements
- A person **who was required to make a report** to the Title IX coordinator and **knowingly failed to make the report or knowingly filed a false report with the intent to harm or deceive**.
 - Would be a **Class B misdemeanor** (up to **180** days in **jail** and/or a maximum **fine** of **\$2,000**).
- *If it was shown at trial* that the actor **intended to conceal** the incident
 - Would be a **Class A misdemeanor** (up to **one year** in **jail** and/or a maximum **fine** of **\$4,000**).
- An institution would be required to terminate an employee whom it determined had committed an offense.

Title IX Team

Title IX Coordinator

Mary Elizondo, MBA, CFE, CGMA, CPA
Vice President - Finance and Administrative Services
(956) 872-3558
marye@southtexascollege.edu

Title IX Deputy Coordinators

Lauren E. Starnes, J.D.
Institutional Equity Manager, Title IX and 504 Coordinator
(956) 872-2307
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Director of Career & Employer Services
956-872-6319
TitleIX@southtexascollege.edu



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Director of Counseling
956-872-2140
santaep@southtexascollege.edu

Take Aways

- Pregnancy and parenting most common issues
- Supervisors have additional burden
- Personal liability if you do not report, or start investigating
- Report things students tell you
- Report things your employees tell you
- Subject to criminal offense beginning 2020 if any employee doesn't report: *sexual harassment, sexual assault, dating violence, or stalking*

Documentation 101:

Effective and Efficient Documentation

*"It takes too much time." "We didn't think it was necessary." "I'll just call them/meet with them."
"I thought they understood." "I did it myself because employee didn't understand." "I'll make this one exception."*

Tell it to the....



“If it’s not in writing, it didn’t happen.”

–Every Lawyer Ever

So why document?

Establishes communication

Establishes an incident or event as having occurred

Eliminates He said/She said; I said/They said; etc.

Establishes a pattern

Establishes your diligence as an employee (or supervisor)

Covers your assets (personal liability)

When to document?

No set number

- “How many number of times before I send out an email?”

Expectations

Employee Concerns

Incidents and Outbursts

To correct incorrect information

Afraid of consequences

Meetings where these things are discussed



Medical issues or declarations

Worker's comp issues

Document and report falls, even if no one hurt

For such issues, refer to HR Benefits!

Documentation Dos & Don'ts

DO!

- Be timely
- Be direct
- Be respectful
- Be succinct but descriptive
- Include the individual
- Include proper chain of command; if appropriate
- Give deadline (time and date) and/or expectation; if appropriate
- Objective, Reasonable, and Factual

DON'T

- BCC
 - Lots of room for errors
- Write a novel
- Engage in email wars
 - You will lose
- Use absolutes
 - “Never”, “always”
- Be judgmental or editorialize
 - “It appears that you...”
 - “sloppy...lazy”, “clearly you are...”
- Assume intent or focus on reason for behavior
- Not your parent/Not your children

Problematic Documentation Examples



CBC

"My previous manager kept a spreadsheet to track every single minute of my day. If my productivity was lower for a particular day, she would pull me into a meeting and present all the past spreadsheets and ask why I was not being productive during XYZ minutes. She tracked the minute I clocked into work, how long I spent in the bathroom, how long I stepped away to get a cup of coffee in the break room, and how long I talked to customers."

- Pages and pages with dates and subject, but no validation meetings occurred
- Emails notifying others of expectations, but nothing to the employee
- Creating the record after-the-fact rather than when it happened
 - "Last month, I think we talked about..." vs. "Yesterday, Monday, June 5, 2018, we talked about my evaluation and I stated that..."
- Positive Performance Evaluations when not truly reflective of job performance
 - "Bad" evaluations should not be a surprise
- Documenting repeated conduct or issue and not resolving it
 - Student plagiarizing/absent multiple times
 - Employee warned 10 times for not being at work station
- Not being fair, consistent, and equitable

Problematic Choices

"You indicate that..."

"It appears that..."

"I have the impression that..."

"I believe that..."

60

Why are they a problem?



- Subjective
- Why did you tell everyone else, but not the person? (employee or supervisor)
- Why is the 11th time now a problem?
- Why did you not follow your own syllabus/department handbook?
 - Change it
 - Communicate
- No proof that both parties knew what was happening
- Not fair, consistent, or objective

Most Common Problems:

- Incomplete Documentation
- Excessively incomplete Documentation

Effective Documentation Examples

- Who
- What
- When
- Where
- Witnesses
- How
- Outcome
- Factual


Since the plans' conclusion, [redacted] has been absent eleven (11) out of the last fifteen (15) business days. [redacted] is scheduled for work from 8 am until 5 pm, Monday-Friday.

[redacted] was out on the following days:

[redacted]	5, 20	8 hours Sick
[redacted]	6, 20	1.25 Vacation
[redacted]	7, 20	8 hours LWOP
[redacted]	12, 2	3.75 LWOP
[redacted]	13, 2	8 hours LWOP
[redacted]	14, 2	8 hours LWOP
[redacted]	19, 2	8 hours LWOP
[redacted]	20, 2	8 hours LWOP
[redacted]	21, 2	8 hours LWOP
[redacted]	22, 2	8 hours LWOP
[redacted]	23, 2	8 hours LWOP



Real World Examples!


 SOUTH TEXAS COLLEGE

Memorandum

Employee Name: [redacted]
 Date: [redacted]
 Issued By: [redacted]

1. Leaving work without permission	7. Excessive Absenteeism
2. Excessive time away from work area	8. Abuse of work time
3. Threatening behavior	9. Failure of cooperate
4. Abusive language	10. Failing to follow Instructions
5. Damaging or abusing equipment	11. Failing to use protective equipment
6. Violating safety & health rules	12. Other: <u>Negligent</u>

DESCRIPTION / EXPLANATION OF VIOLATION:
 On January [redacted] it was reported to [redacted] that [redacted]
 [redacted]. On Friday [redacted] you [redacted]
 [redacted] This memorandum will serve as written warning. If this should continue, further action will be taken.

EMPLOYEE RESPONSE:


Employee Name: [redacted] Date: [redacted]
 Supervisors Name: [redacted] Date: [redacted]

See Supplemental!

Elements to a Good Follow Up Email

- Date and Time of meeting
- Who was there (if anyone)
- Identify the issue and reason
- Factual Specifics
That a reasonable person not familiar with the situation would have a general idea of what took place
- Outcome
- Consequence of future issues
- Closing

See Supplemental!

Real World Example

Jaime Navarro

From: Jaime Navarro
Sent: Monday, [REDACTED] 11:13 AM
To: [REDACTED]
Subject: Friday Follow up

[REDACTED],

Thank you for meeting with me on Friday, [REDACTED]. Again, we are very excited to have you on the team and look forward to your contributions.


At the meeting we reviewed several items and recapped your first week. In particular, we discussed the following:

- Reviewed the difference between the STC Employee Handbook, HR Departmental Handbook, and Employee Relations internal procedures
- Reviewed the HR Departmental Handbook and ER Internal Procedures for questions and general knowledge
 - There were minimal questions on the handbooks, and we are all working together to update the ER internals
- Reviewed [REDACTED] job description, and where possible related it to the week's activities
 - We agreed this would be an ongoing discussion as it was only the first week
- Discussed and reviewed job expectations (confidentiality, professionalism, etc.)
 - We agreed this would be an ongoing discussion as it was only the first week
- Discussed your personal goals and expectations of the position
 - Working on presentations, giving presentations, working on policies, and on investigations were a few items you expressed an interest in
- Discussed overtime and how it is to be used, along with a general prohibition on working during [REDACTED]
- Reviewed and discussed the "rough to do list" that was sent to you on Monday, [REDACTED]; of which many of the items were completed, or nearing completion
- [REDACTED]

Please let me know if I missed something, or anything needs clarification before [REDACTED]

Sincerely,

Jim Navarro, SHRM-CP
Employee Relations Officer
956-872-4448 office
956-872-3805 direct
956-872-2322 fax
jnavar53@southtexascollege.edu



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Complaints & Investigations

Topics

HR Investigations vs. Workplace Investigations

Employee Complaint Procedure

- Policy #4904 Overview
- Requirements & Procedures

Investigations

- Guidance
- Components
- Findings



How are employee related complaints made? Who receives them?

Intake

- Online, email, phone, snail-mail, verbal

Who receives complaints for action?

- Director
- Assistant Director
- Employee Relations Officer

Report an Incident or Complaint

Complaints Against Students

Report a Complaint involving a STUDENTS of South Texas College, this includes behaviors that occur both on and off campus.

[Launch Form](#)

Complaints Against Employee(s), Vendor(s), Visitor(s)

Submit a complaint involving EMPLOYEE(S), Vendor(s) and/or Visitor(s) regarding an behavior of concern or misconduct including but not limited to, alleged discrimination, harassment, sexual misconduct, standards of conduct, or retaliation.

[Launch Form](#)

Non-Complaint Incident Report Against Student(s)

Report any behaviors of concern involving STUDENTS of South Texas College; this includes behaviors that occur both on and off campus

[Launch Form](#)

Non-Complaint Incident Report Against Employee(s), Vendor(s), and/or Visitor(s)

Report information related to an alleged or witnessed incident(s) of concern or misconduct involving EMPLOYEE(S), Vendor(s) and/or Visitors.

[Launch Form](#)

What happens after a complaint is received?

- Director determines who investigates (HR vs. Department)
- Referred out to Supervisor, Chair or Dean
- Followed up on until resolved, but HR not primary investigator
- File kept
 - Findings
 - Any disciplinary action
 - Notification communication
 - Increasingly being asked for more information
 - To ensure concerns are addressed

HR Investigations

Fraud & Abuse Allegations (Policy #4204)

Equal Education and Employment Opportunities (Policy #4205)

The Whistleblower Act (Policy #4209)

Sexual Misconduct, discrimination, pregnancy, and retaliation complaints (Title VII and Title IX) (Policy #4216)

Others as assigned by other entities

Report any to the Employee Relations Officers or the Human Resources Director **immediately**



4.5 The institution has adequate procedures for addressing written student complaints and is responsible for demonstrating that it follows those procedures when resolving student complaints. (See Commission policy "Complaint Procedures against the Commission or its Accredited Institutions.") (Student complaints)

SACS Principles of Accreditation Section 4.5

Page. 39

<http://www.sacscoc.org/pdf/2012PrinciplesOfAccreditation.pdf>

Title IX

- Pregnancy and parenting most common issues
- Confidentiality Concerns & Notices
- Personal liability if you do not report, or start investigating
- Report things students & employees tell you
- **HB1735/SB212**
- Subject to criminal offense beginning 2020 if any employee knowingly fails to report: *sexual harassment, sexual assault, dating violence, or stalking*

Workplace Investigations

- Complaints concerning wages, hours of employment, or work conditions, customer service issues, academic integrity issues (Policy 4904)
 - Take all complaints seriously
 - Employees complain to supervisors only when they feel an issue is serious
- Ignoring employee complaints can:
 - Affect work, commitment, and morale
 - Can create legal problems (Not only lawsuits!)
- Retaliation prohibited

Case Study: Customer Service/Classroom Management

Employee Complaint Procedure

Policy #4904

- Complaints arising out of an event or a series of related events that occurred prior to the filing of the complaint shall be addressed in one complaint
- No employee shall be penalized, disciplined or prejudiced for exercising the right to file and pursue a complaint
- Informal & Formal process

Employee Complaint Procedure Policy #4904

Informal Complaint Process:

- All employees encouraged to resolve complaints through open communication and informal processes
 - Communicate with employee
 - Communicate with employee's supervisor
 - HR Mediation

Employee Complaint Procedure Policy #4904

Formal Complaint Process – Level One

- Can be employee or the employee's representative
- Presented in writing to the employee's own immediate supervisor
- Submitted within 20 working days when aware or should be aware of the action which is the subject of the complaint

Three Components

1. A clear explanation of the employee's specific concern;
2. A description of how the employee's employment has been affected.
3. A description of the relief the employee is seeking.

Employee Complaint Procedure

Policy #4904

Responding to Level One

- Complaint reviewed with HR Representative, the supervisor's supervisor or the respective division VP (if applicable)
 - Immediate supervisor will meet with the employee to discuss the complaint
 - 20 working days from date the complaint is filed
- Note: Vice-President may attend the meeting.
- The employee's immediate supervisor will provide written notice to the employee, within 10 working days after the meeting
 - If no written notice is provided, deemed a denial of the employee's grievance

Employee Complaint Procedure

Policy #4904

Appealing Formal Complaint Process – Level Two

- Employee must submit to the respective division Vice-President or the President, as the case may be
- Not later than 10 working days from the date of the decision at Level One.
- Shall provide the reason(s) why the Level One decision was not acceptable to the employee.

Employee Complaint Procedure Policy #4904

Responding to Appeal of Formal Complaint Process – Level Two

- The Vice-President, or President, as the case may be, may consult with HR Representative not later than 20 working days following receipt of the complaint (appeal)
- A written decision shall be mailed to the employee
- If the employee does not receive the written notice within the prescribed time period, it shall be deemed a denial of the employee's grievance
- The decision of the Vice-President, or President is final and not appealable under this policy

Investigation File Components

The case file should include:

- A copy of the complaint
- Complainant, Respondent, and Witness statements, as available
- Evidence, as available (texts, emails, etc.)
- Correspondence (such as this email)
- A memo/letter/email of the findings
- Signed copies of the final findings letters/emails/memo that were sent to the parties
 - Proof of Delivery

Investigation Guidance

Speak with Complainant

- Ask open ended questions
- Ask for details

Speak with Respondent

- Ask open ended questions
- Ask for details

Question witnesses if necessary

Contact HR if you need assistance

Investigation Guidance

Ask questions – the Ws

- Who, What, When, Where, Why, Witnesses?

Gather evidence if available

- Emails, Texts, Social Media
- Witness statements

Document, document, document!!!

Investigation Findings

- Preponderance of the Evidence Standard
 - More likely than not; 50% plus a feather
 - Insufficient Evidence
 - No violation of policy
 - Inappropriate behavior not rising to the level of a policy violation
- Violation of Policy
 - Chain of command – appropriate disciplinary action
 - Policy #4911 Disciplinary Action Procedures
- **Provide findings to complainant and respondent**
 - Certified Letter, Memo, Email

Take Aways

- ✓ Do not discourage employees from filing a complaint or speaking to Human Resources
- ✓ Speak to all parties
- ✓ Document
- ✓ Provide an outcome, even if there is no outcome
- ✓ Templates

Professionalism

- ✓ Employees treated consistently, fairly, and equitably
- ✓ Deal with facts
- ✓ Be patient
- ✓ Choose your words carefully
- ✓ Keep teamwork in mind when you speak
- ✓ Nonverbal Communication
- ✓ Avoid jokes that can escalate
- ✓ Respect personal space

Last Items...etc., etc....

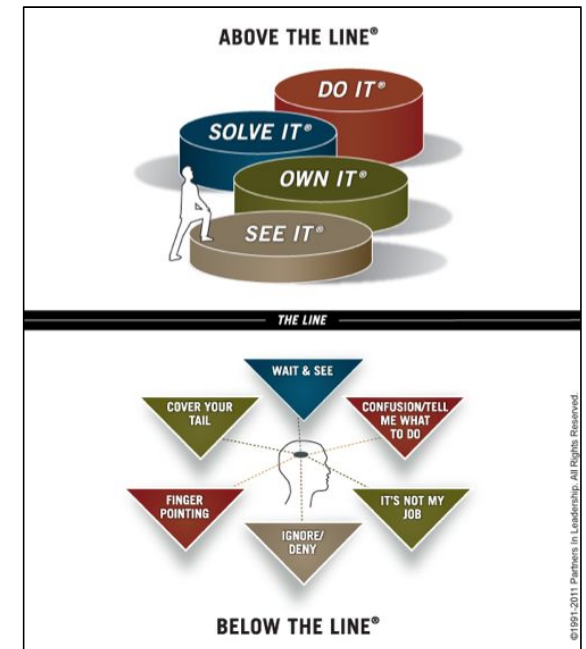
Open Records

Leverage technology

- Remind.com
- Outlook

Get in the habit

HR Assistance





Thank You!

Employee Relations Team

Laura Requena, Director of Human Resources, 872-3646

Alicia Correa, Assistant Director of Human Resources, 872-3815

Jim Navarro, Employee Relations Officer, 872-3805

Sheena Cox, HR Specialist-Employee Relations, 872-3717

Cynthia Magro, HR Specialist-Employee Relations, 872-3816

Note: This information is provided as guidance and best practices for and regarding employees of the College, not independent contractors or temporary agency employees. To be sure, such information can be incorporated, however, please consult with your chain-of-command or Human Resources for appropriate guidance. Further situations are case specific with unique fact-patterns, and answers are provided within a general, reasonable person framework.