

ANTI-DISCRIMINATION AND HARASSMENT

I. POLICY

Salt Lake Community College is committed to advancing knowledge, freedom of thought and inquiry, and the personal, social, and intellectual development of its students, faculty, and staff. An atmosphere of mutual respect among our community members is necessary for the college to function as a center of academic freedom and intellectual advancement. It is SLCC's policy to provide all personnel with a respectful work environment free from discrimination, harassment, and retaliation.

II. REFERENCES

- A. The Equal Pay Act, 29 U.S.C. § 206.
- B. The Age Discrimination in Employment Act, 29 U.S.C. §§ 621–634.
- C. The Rehabilitation Act, 29 U.S.C. §§ 701-797.
- D. The Vietnam Era Veterans Readjustment Act of, 38 U.S.C. § 4212.
- E. Title VII of the Civil Rights Act, 42 U.S.C. § 2000e.
- F. The Americans with Disabilities Act, 42 U.S.C §§ 12101–12213.
- G. The Utah Anti-discrimination Act, Utah Code Ann. §§ 34A-5-101–112.

III. DEFINITIONS

- A. Adverse Action: Any material action against an individual in a manner that affects an employee's employment status, including compensation, terms, conditions, location, rights, immunities, promotions, or privileges.
- B. Discrimination: Treating someone differently based on a person's protected class, when such conduct adversely affects the term, condition, or privilege of an individual's employment or participation in a college program or activity.

Date of last cabinet review: August 18, 2021

The originator of this policy & procedure is the director of EEO and Title IX. Questions regarding this policy may be directed to the originator by calling 801-957-4561.

4.2.040

- C. Hostile Environment Harassment (“Harassment”): any unwanted verbal, written, electronic, or non-verbal conduct (whether directly, indirectly, or through a third party) based on one’s protected class that is objectively offensive and sufficiently severe or pervasive to alter the conditions of employment of an employee or to limit, interfere with, or deny educational benefits or opportunities of a student.
- D. Protected Class: Personal characteristics such as race, color, religion, national origin, sex, sexual orientation, gender identity, gender expression, age, disability, veteran status; pregnancy, childbirth, or pregnancy-related conditions; genetic information, legal statuses such as undocumented or formerly incarcerated, or other bases protected by law.
- E. Retaliation: Any form of sanction or adverse action or treatment of a person that is intended to restrain or has the effect of restraining that person from any college program or activity, because that person made a discrimination or harassment complaint, or participated in any way in a discrimination or harassment investigation.
- F. See [Personnel Definitions](#) for other applicable definitions.

II. PROCEDURES

A. Applicability

1. All SLCC employees, students, volunteers, and contractors are prohibited from engaging in discrimination, harassment, or retaliation by taking adverse action against a member of a protected class.
2. All employees are responsible for assuring that discrimination, harassment, or retaliation does not occur and that the college's working and educational environment is not threatening, hostile, or offensive to diverse individuals at any college site.
3. The college will take affirmative actions to educate and to create a welcoming and inclusive workplace free of discrimination, harassment, and retaliation.
4. Employees and students who engage in discrimination, harassment, or retaliation may be subject to sanctions or corrective action, including expulsion, immediate suspension, administrative leave, or termination.
5. Intentional false claims, statements, or bad faith allegations may result in corrective action against the person making such allegations.
6. Claims of discrimination and harassment not based on a protected class are covered in the Employee Conduct or other college policy.

B. Confidentiality

1. Unless required by law, the college will respect all participants' confidentiality.
2. Any person who believes they are the victim of or has knowledge of discrimination or harassment is encouraged to report it directly to their supervisor, second-level supervisor, the EEO Director, or the associate vice president of People and Workforce Culture. This allows the college to identify patterns of problematic behaviors and instances of persistent discrimination or harassment.
3. Victims have broad discretion to determine whether to file a complaint. All victims are encouraged to inform and consult with their supervisor or the EEO Director especially if they are unsure or uncertain how to proceed.
4. Supervisors who witness or receive a report regarding a potential instance of discrimination, harassment, or retaliation must inform the EEO Director within two business days to discuss the appropriate institutional response. Only confidential employees (see IV.F below) are exempt from this requirement.
5. The EEO Director will maintain and store the records of all discrimination and harassment complaints for a minimum of seven years. The complaint file is confidential.

C. Retaliation

1. The college strictly prohibits any form of retaliation against any person who has made a complaint, assisted with, or participated in an investigation under this policy.
2. The college will treat instances of retaliation as separate offenses to be thoroughly investigated and addressed.

D. Reporting Discrimination, Harassment or Retaliation

1. While affected individuals may report discrimination, harassment, and retaliation at any time, the college encourages individuals to promptly report these adverse actions promptly to ensure timely resolution, the preservation of evidence, and the protection of others and college culture.
2. Any person who believes they have experienced or witnessed discrimination, harassment, or retaliation should do one of the following:
 - a. submit an online reporting [form](#);
 - b. discuss it with their first or second-level supervisor; or

- c. consult with the EEO director in person, by mail, telephone, email.

EEO Director
4600 South Redwood Road
Technology Building, Suite 222
Salt Lake City, Utah 84123
(801)957-4561
David.jensen@slcc.edu, or eeo@slcc.edu

3. Filing a Complaint

- a. A complaint may be made orally or in writing and should describe in plain language:
 - (1) the circumstances which the complainant believes support the allegation of employment discrimination, harassment, or retaliation;
 - (2) supporting evidence, if any;
 - (3) the name of the individual against whom the claim is made; and
 - (4) any remedies that the complainant seeks.
- b. Those who believe they are victims of employment discrimination, harassment, or retaliation, witnesses, or others may also initiate outside legal action through private sources, the Utah Antidiscrimination and Labor Division, or the U.S. Equal Employment Opportunity Commission.

4. Determining-Appropriate Resolution Process

- a. The EEO director shall assess the allegations and determine whether the allegations, if proven constitute a violation of this policy.
- b. If the reported allegations constitute a potential violation of this policy, the EEO Director will commence an investigation. However, the optional mediation process addressed in section IV.K may be used if both the complainant and respondent consent to mediation.
- c. If it appears the allegations violate another policy, the EEO director will refer and forward the relevant information to the appropriate parties which may include Employee Relations, relevant supervisors, or other relevant parties. The EEO Director will notify the reporting party of the decision and communicate the process under other policies and procedures.

E. Supervisors

1. Supervisors must:
 - a. ensure and maintain a working environment free of discrimination, harassment, and retaliation;
 - b. inform the EEO Director within two business days after receiving a complaint of discrimination or harassment or retaliation;
 - c. allow employees time to participate in an investigation should they be involved;
 - d. in consultation with the next level supervisor, the EEO Director, and the director of Employee Relations, determine the appropriate corrective actions for violations of this policy; and
 - e. notify the appropriate Vice President/Provost after imposing the corrective action.

F. Confidential Employees

1. An employee is a confidential employee if they are a licensed medical, clinical, mental health professional, or their staff. This is generally the Center for Health and Counseling staff.
2. Any person who thinks they may have experienced or witnessed harassment, discrimination, or related retaliation may seek confidential counsel and support from a confidential employee.
3. The college prohibits confidential employees from disclosing protected information communicated to the employee unless:
 - a. the individual gives written consent to the employee;
 - b. the confidential employee is reasonably concerned that the individual will cause serious harm to themselves or others; or
 - c. the information involves suspected abuse, neglect, or exploitation of a person under 18 years old or a vulnerable adult.

G. Office of Equal Employment Opportunity

1. The EEO director serves as a resource to the college to provide information, counseling, training, and advice regarding employment discrimination, harassment, and retaliation.

2. An employee with a complaint is encouraged to discuss it with the EEO director to clarify whether employment discrimination, harassment or retaliation may be occurring and determine the employee's options, including the pursuit of more formal action.
3. If the complainant does not want to file a complaint, the EEO director may file a complaint regarding the alleged discrimination, harassment, or retaliation. In deciding whether to initiate a complaint, the EEO Director should consider the severity of the allegation.
4. The college may provide counseling, course-related adjustments, modified employment conditions, increased security, or other supportive measures designed to restore or preserve access to the college's programs or activities to all persons regardless of the pursuit of a complaint.
5. The EEO director will provide complainants with information regarding supportive services that the college and other organizations offer.
6. The college's Department of Public Safety may concurrently investigate criminal complaints.

H. Investigation

1. Investigations must be conducted according to [Investigation Procedure Guide](#) and meet all applicable laws and regulations.
2. The EEO Director will, in consultation with the director of Employee Relations, Dean of Students and assistant attorney general, determine if an institutional investigation is required based on the complaint.
3. If there is a need for an investigation, the EEO Director, will
 - a. appoint a lead investigator and support investigator to conduct the investigation; and
 - b. issue a Notice of Investigation.
4. The AVP for People and Workplace Culture, in consultation with the EEO Director and legal counsel, will make decisions on complaints regarding whether investigators, mediators or appeal examiners have are biased or have a conflict of interest in violation of college policy. If the complaint is founded, the person will be removed from their EEO duty.
5. Notice of Investigation
 - a. The EEO director will provide notice of investigation to:
 - (1) the complainant;

- (2) the respondent;
- (3) the appropriate vice president; and
- (4) the supervisor or dean as appropriate.

b. The notice of investigation must include:

- (1) the names of the parties involved;
- (2) a copy of anti-discrimination and harassment policy;
- (3) the specific allegations of misconduct;
 - (a) the complainant may provide a statement of the alleged misconduct to be included in the notice of investigation;
- (4) the date and location of the incident;
- (5) notice of the parties' rights to mediation; and
- (6) the steps for requesting a mediation.

c. Respondent will have five business days to provide a written response to the specific allegations made by the complainant.

d. Complainant will have five business days to provide a rebuttal to any allegations that the respondent disputes in the response.

6. The Investigation Report

- a. After the investigation, the investigators must write an investigation report detailing their findings.
- b. Investigators shall complete the final investigative report within 30 calendar days of receiving a complaint.
- c. The Associate Vice President ("AVP") for People and Workplace Culture may grant a reasonable extension for complex investigations or other reasonable, extenuating circumstances. If granted, the AVP for People and Workplace Culture must communicate the extension reasons to the parties and the appropriate college administrator.
- d. The investigation report must be written using the investigation report template.
- e. The investigation report shall determine if either responsible or not responsible.

- f. If the co-investigators do not agree on the determination of responsibility, The EEO Director will make the determination on responsibility.
 - g. The lead investigator will deliver the completed report to the EEO director.
 - h. The EEO director will provide the report to the parties simultaneously and provide notice to the supervisor.
- I. Appeal of Investigative Findings
1. If there is no request for an appeal, the final report becomes final and binding.
 2. Any party may request an appeal of the findings by submitting a request in writing to the EEO director within five business days from the date the final report is sent.
 3. Failure to file a timely written request for an appeal is a waiver of the right to an appeal.
 4. Upon receipt of an appeal, the EEO director shall forward the appeal to the other party and invite that party to submit a written response.
 5. The EEO director may also provide a written response to the request for review.
 6. The EEO director shall appoint an appeal examiner.
 7. On appeal, the appeal examiner may review the parties' written statements, the final investigative report, and all evidence collected during the investigation.
 8. The appeal examiner's written decision may:
 - a. affirm or modify the final investigative report;
 - b. remand the decision back to the investigators; or
 - c. overturn the investigative report in part or whole.
 9. The appeal examiner's written decision is final.
- J. Supervisor Response to Investigative Report
1. Upon receipt of the investigative report, the respondent's supervisor will coordinate with Employee Relations to review the record in its entirety.

2. The supervisor and Employee Relations may solicit whatever additional counsel and advice from the college's legal office or the EEO Director they determine is appropriate to assist in arriving at a response.
3. The deciding supervisor and Employee Relations will determine whether to close the complaint, attempt informal conciliation between the parties, or initiate corrective action proceedings.
 - a. Corrective or remedial action may include, but is not limited to, mandatory training, an oral or written reprimand, a warning letter, a temporary reduction in pay, probation, suspension with or without pay, or termination.
 - b. The supervisor must take reasonable measures to prevent any further violations of policy.
 - c. Should any corrective actions be applied, those actions will be subject to due process procedures in the applicable college policies.
4. Upon determining the appropriate corrective action, the supervisor will notify respondent in writing.
5. The EEO Director will communicate the final resolution of the complaint to the complainant. The EEO Director shall respect the confidentiality of the corrective action.

K. Optional Mediation Process

1. The purpose of mediation is to resolve the dispute to the satisfaction of all parties.
2. At any time before reaching a determination regarding responsibility, the college may facilitate a mediation process (e.g., mediation) instead of a full investigation process.
3. The decision to enter mediation is a voluntary option for the parties, and neither party may be pressured or required to enter a mediation process.
4. The EEO director will obtain voluntary, written confirmation that all parties wish to resolve the matter through a mediation process before proceeding.
5. When mediation is appropriate, the EEO director shall designate an impartial mediator, who shall be mutually agreed upon and not unreasonably refused by the parties and inform the parties in writing of the mediation process and schedule.

6. Where practicable, mediation shall occur no later than 30 days after agreed to by the parties. Extensions may be considered and granted by the Associate Vice President for People and Workplace Culture.
7. The investigative timelines presented under these procedures shall be paused pending the outcome of the mediation.
8. If mediation successfully resolves the complaint, the mediator shall put the terms of the resolution in writing, which the parties shall sign.
 - a. The agreement must be approved through appropriate college personnel (supervisors if an employee and dean of students if a student).
9. If mediation does not resolve the matter, all mediation discussions shall remain confidential and may not be used in-the formal process or any other forum.
10. Either party may withdraw their participation in mediation at any point before the conclusion.