

SEXUAL HARASSMENT/HARASSMENT

Each student and employee has the right to learn and work in an environment free of unlawful harassment based on an individual's race, color, religion, creed, ancestry, gender, national origin, disability, age or other basis prohibited by law.

It shall be a violation of this policy for any student or any personnel of the Cooperative to harass a student, any Cooperative personnel, or any visitor through conduct or communication of a sexual nature, or communication disparaging a person's religion, race, color, religion, creed, ancestry, national origin, gender, disability, or age as defined by this policy. For the purpose of this policy, "cooperative personnel" includes SAC Board members, all cooperative employees and agents, volunteers, contractors, or persons subject to the supervision and control of the Cooperative.

The Cooperative will investigate all complaints of harassment and will discipline or take appropriate action against any Cooperative personnel who is found to have violated this policy.

The Cooperative will provide annual in-service education and training about harassment for employees.

A. Definitions

1. Harassment: Harassment consists of physical or verbal conduct related to a person's gender, race, color, religion, creed, ancestry, national origin, age, disability, or other basis prohibited by law when the conduct is so severe, pervasive, and objectively offensive that it:
 - a. has the purpose of effecting or creating an intimidating, hostile or offensive working or academic environment.
 - b. has the purpose or effect of substantially or unreasonably interfering with an individual's work performance which deprives the staff member access to employment or academic opportunities.

2. Sexual Harassment: Sexual harassment is any unwelcome sexual advances(s), request(s) for sexual favors and/or other verbal, physical, and/or visual contact(s) of a sexual nature, or communication of a sexual nature when:
 - a. submission to such conduct or communication is made, either explicitly or implicitly, a term of person's initial employment; or

- b. submission to or rejection of such conduct or communication by an individual is used as a factor in decisions affecting a student's ability to learn or participate in school activities, or in hiring, evaluation, retention, promotion, or any other aspect of employment; or
- c. such conduct or communication has the purpose or effect of interfering with an individual's ability to learn or work, creating an intimidating, hostile, or offensive working or educational environment; or
- d. such conduct is so severe, pervasive, and objectively offensive that such conduct or communication has the purpose or effect of depriving the employee access to employment opportunities or benefits provided by the Cooperative or depriving a student of educational opportunities.

3. Sexual harassment may include but is not limited to:

- a. unwelcome verbal harassment or abuse based upon gender.
- b. unwelcome pressure for sexual activity.
- c. unwelcome, gender-motivated, or inappropriate patting, pinching, or physical contact, other than necessary restraint of pupils by teachers, administrators, or other cooperative personnel to avoid physical harm to persons or property;
- d. unwelcome behavior or words, based upon gender, including demands for sexual favors, accompanied by implied or overt threats concerning the individual's employment or educational status.
- e. unwelcome behavior or words, based upon gender, including demands for sexual favors, accompanied by implied or overt promises of preferential treatment regarding an individual's employment or educational status.
- f. Displaying pictures, posters, calendars, graffiti, objects, promotional materials, reading materials or other materials that are sexually suggestive, sexually demeaning, or pornographic, in the work environment.

4. Harassment and sexual harassment can occur over social media.

5. Title IX Coordinator: The Cooperative's Title IX Coordinator is designated during the annual meeting. When a complaint occurs related to discrimination or harassment based on sex, the Title IX Coordinator responds to that complaint by exercising the following duties.

- a. Assist the complainant in filing a formal complaint (if so desired).
- b. Provide respondents with written notice about the complaint.
- c. Offer supportive measures to complainants and respondents.
- d. After review of each Title IX complaint, either dismiss the complaint (if not within the jurisdiction of Title IX) or arrange an investigation.

- e. When the complainant and the respondent are both willing to do so, facilitate an informal resolution of the complaint.
- f. Maintain records of Title IX complaints, investigations, remedies, disciplinary actions, and appeals.

B. Reporting Incidents of Harassment

Any person who believes he or she has been the victim of Title IX harassment shall report that incident to the Cooperative's Title IX Coordinator.

Any person who believes he or she has been the victim of other (non-Title IX) harassment as defined above by a student or an employee of the Cooperative shall report the alleged acts immediately to the Cooperative Director. If the complaint involves the Director, that complaint shall be filed directly with the Board of Director's Chairman. The form for reporting harassment of any kind is available in the Southeast Area Cooperative policy manual and on the Cooperative website.

1. Submission of a complaint or report of harassment. Submission of a complaint or report of harassment will not affect the individual's employment or work assignments.
2. Confidentiality. The Cooperative will make attempts to respect the confidentiality of the complainant and the individual(s) against whom the complaint is filed as much as possible consistent with the Cooperative's legal obligations and the necessity to investigate allegations of harassment and take disciplinary action when the conduct has occurred.
3. Procedure. The complaining employee will be asked to put the facts surrounding the conduct in writing on a form provided by the Cooperative that includes the following: complainant's name and address; time and date of the incident; type of harassment; description of the incident; name of or identifying information about the alleged perpetrator; name of any witnesses, what action, if any, has been taken; and signature of the complainant.
4. Required Reporting. If the accusations include possible criminal activity such as molestation, sexual battery, or similar contact, all mandatory state reporting requirements including, but not limited to, contact with the State Department of Social Services will be initiated.

C. Investigation

Upon receipt of a written report alleging harassment and determination that the complaint will not be dismissed, the Director or Title IX Coordinator shall immediately authorize investigation. This investigation may be conducted by Cooperative officials or by a third party designated by the Cooperative. The investigating party shall provide a written report of the status of the investigation to the Director.

In determining whether alleged conduct constitutes harassment, the Cooperative should consider the surrounding circumstances, the nature of the advances, relationships between the parties involved, and the context in which the alleged incidents occurred.

The investigation may consist of personal interviews with the complainant, the individual(s) against whom the complaint is filed, and others who may have knowledge of the alleged incident(s) or circumstances giving rise to the complaint. The investigation may also consist of any other methods and documents deemed pertinent by the investigating party.

In addition, the Cooperative may take immediate steps at its discretion to protect the complainant, students, and employees pending completion of an investigation of alleged harassment.

During the investigation, all parties directly involved in the complaint may have legal or other representation. If any party elects to be represented at any step of the complaint procedure, the name of the representative must be declared in writing to the Director or his/her designee with two (2) working days of the filing of the complaint, notification of any investigation, or the filing of any appeal.

D. Cooperative Action

1. After considering the results of the harassment investigation, the Cooperative Decision Maker (designated advisory board member) will make a determination of responsibility.
2. The complainant and respondent will be advised of the Decision Maker's decision in writing. This decision must communicate the procedural steps taken, any findings of fact, and a determination of responsibility – for each allegation. The decision must also document the sanctions or remedies for each allegation.
3. If either party is not satisfied with the decision rendered by the Decision Maker, he or she may request an appeal hearing in executive session with the Board of Directors. The request for hearing must be submitted in writing through the Director's Office within ten (10) working days following receipt of the Director's response. The appeal must include the original complaint form, a copy of the written decision from the Director, and a written statement as to the reasons for appeal. The hearing will be scheduled within (30) working days of the request for hearing. The parties involved will be notified in writing of the time and date of the scheduled hearing.

Title IX harassment determinations may only be appealed based on the following circumstances.

- a. procedural irregularity
- b. new evidence not reasonably available
- c. conflict of interest against Title IX Coordinator, investigator, or decision maker

4. The Cooperative Board of Directors will render an appeal decision in writing within ten (10) working days of the hearing.

E. Procedures during Conflicts of Interest

To minimize conflicts of interest, the decision maker must not be the investigator or the Title IX Coordinator. With that in mind, if an allegation of sexual harassment involves the Title IX Coordinator, another member of the Advisory Board will exercise the Title IX Coordinator's duties.

If the Director has assumed the Title IX Coordinator's duties or is alleged to have committed sexual harassment, then any determinations of responsibility must be made by the Board of Advisors.

The Board of Directors reserves its role for the appeals process.

F. Prohibition against Retaliation

The Cooperative will discipline any individual who retaliates against any person who reports alleged harassment or who retaliates against any person who testifies, assists, or participates in any investigation, proceeding, or hearing related to a harassment complaint.

Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment. Retaliation is itself a violation of federal and state laws prohibiting discrimination and may lead to separate disciplinary action against an individual.

If any personnel or student who has filed a complaint or has testified, assisted, or participated in the investigation of harassment believes that he or she has been retaliated against because of his or her participation, he or she should follow the procedures set forth above.

G. False Charges

Charges found to have been intentionally dishonest or made maliciously without regard for truth may subject complainants to disciplinary action.

H. Uncomfortable Situations

The Cooperative recognizes that not every uncomfortable situation constitutes harassment. Whether a particular action or incident is a personal, social relationship without a discriminatory effect on employment or learning environment requires a determination based on all the facts and surrounding circumstances. False accusations can have a serious detrimental effect on innocent parties.

I. Discipline

Any Cooperative action taken pursuant to this policy will be consistent with requirements of applicable collective bargaining agreements and Cooperative policies. The Cooperative will take such disciplinary action it deems necessary and appropriate, including but not limited to, warning, suspension, or immediate discharge to end harassment and prevent its recurrence.

Written Notice of Title IX Rights

You have become the subject of a Title IX (sexual harassment) complaint, the details of which are attached. These allegations need to be investigated, after which a determination of responsibility will be issued. If you are found to be responsible for sexual harassment, then you will face disciplinary sanctions.

However, at this time you are presumed not to be responsible for any allegations. Final responsibility will not be determined until later, following investigation and (if applicable) the grievance process. In the meantime, as the respondent to a Title IX complaint, you have the following rights.

You have the right to detailed notice of the allegations, including the following.

- o names of known parties
- o conduct alleged
- o date and location of conduct (if known).

You have the right to have an attorney or non-attorney advisor.

You have the right to prepare a response prior to any initial interview.

You have the right to inspect and review evidence against you.

You have the right to resolve an allegation informally, if you and the complainant would both agree to do so.

If any new allegations would be uncovered during the course of investigation, you also have these rights with respect to the new allegations.

You have the right to appeal the determination of responsibility for these reasons.

- o procedural irregularity
- o new evidence not reasonably available
- o conflict of interest against Title IX Coordinator, investigator, or decision maker