

TITLE Non-Sexual Harassment & Discrimination	POLICY NUMBER HR 5.11
CATEGORY Title IX Discrimination, Harassment & Sexual Misconduct.	SCOPE All Faculty & Staff
EFFECTIVE DATE	REVISION DATE July 1, 2022

PURPOSE

This policy applies to all students, employees, and visitors of Spartanburg Methodist College. This policy also applies to all SMC programs and activities. It is the policy of SMC that employees, students, and visitors enjoy a positive, respectful, and productive work and learning environment free from behavior, actions, or language constituting harassment or discrimination.

Engaging in harassment or discrimination is unacceptable conduct that will not be tolerated. An employee or student found to have engaged in harassment or discrimination will be subject to disciplinary action up to and including termination or expulsion. Visitors found engaging in harassment or discrimination may have their relationships with the College terminated and/or their privileges of being on SMC's campus withdrawn.

This policy recognizes SMC's commitment to the understanding that the maintenance of ethical standards and the concerns for academic freedom prohibit the exploitation of employees and students. SMC is required by law to take all steps necessary to prevent harassment or discrimination. These steps include informing individuals of their rights and responsibilities, developing educational programs to sensitize the campus community to the issue, and developing sanctions against harassment and discrimination. Employees and students may also be held liable for acts of harassment or discrimination.

SMC also strictly prohibits retaliation by its students and employees against a person who exercises their rights or responsibilities under any provision of this policy, federal, or state law.

For information related to Gender/Sexual Harassment & Sexual Misconduct, refer to policy HR 5.10 in the SMC Policy & Procedures Manual

POLICY

Harassment is a form of illegal discrimination and is unwelcome, offensive conduct that is severe, persistent, or pervasive, which to a reasonable person, creates an intimidating, hostile or abusive work or learning environment. The harassing or discriminatory conduct is based upon an individual's or groups' membership in a protected class. The conduct may be based on race, national origin, age, disability, religion, or the Genetic Information Nondiscrimination Act ("GINA"), etc. Harassment may take the form of verbal or physical conduct that is: hostile, intimidating, threatening, humiliating, violent, derogatory, abusive, disparaging, bullying, or disrespectful. Harassment in electronic form is also protected under SMC's Technology Policy. This policy also prohibits other forms of conduct, which may not rise to the level of illegal harassment or discrimination, but are still prohibited:

- Slurs, jokes, or derogatory comments about a class of persons, such as people who are disabled, or members of a racial minority; or
- Display of offensive calendars, posters, pictures, drawings, or cartoons which reflect disparagingly upon a class or persons or a particular person; or
- Derogatory remarks about a person's national origin, race, language, accent; or
- Disparaging or disrespectful comments even if unrelated to a person's race, color, national origin, religion, age, disability; or
- Loud/angry outbursts or obscenities directed toward an employee, student, or visitor.

I. Reporting Harassment & Discrimination

The purpose of the sections below is to provide a complaint process for employees, students, and visitors who believe they have been subjected to non-sexual harassment or discrimination as defined in the above sections.

Harassment is a form of illegal discrimination and is unwelcome, offensive conduct that is severe, persistent, or pervasive, which to a reasonable person, creates an intimidating, hostile or abusive work or learning environment based on a protected status. Harassment may also include conduct that does not rise to the level of illegal harassment but nonetheless is still prohibited by SMC policy.

A. Employee and Student Responsibility

Harassment or discrimination will not be tolerated on the SMC campus. It is SMC's expectation that employees and students take an active part in preventing harassment and discrimination. Individuals who believe they are being harassed or discriminated against are encouraged to pursue their concerns as outlined in the Non-Sexual Harassment and Discrimination Procedure section of this policy. Employees, students, and visitors may report suspected harassment to the Director of Title IX & Equal Opportunity. Supervisory SMC personnel receiving reports of harassment or discrimination or who otherwise learn of suspected harassment or discrimination are expected to immediately report complaints to the Director of Title IX & Equal Opportunity. Non-supervisory SMC personnel, students, and visitors that learn of non-sexual harassment or discrimination are responsible for notifying their manager and/or Director of Title IX & Equal Opportunity.

Managers who fail to report potential violations of this policy when they knew or reasonably should have known about the conduct may be subject to disciplinary action.

An employee or student who engages in harassment or discrimination is subject to SMC disciplinary procedures.

B. How to Report

Reports of non-sexual harassment and discrimination can be made:

- Online by submitting the "Discrimination, Harassment, and Sexual Misconduct" form on the SMC website at [Discrimination, Harassment, and Sexual Misconduct Report Form \(office.com\)](#); or
- By submitting an anonymous report through the bias report form through the SMC website at [Bias Incident Reporting Form \(office.com\)](#); or
- Contacting or speaking with the Director of Title IX & Equal Opportunity; or
- Speak with a manager or department head who will then forward the information to the Director of Title IX & Equal Opportunity

C. Retaliation

SMC strongly prohibits retaliation by its students and employees against a person who exercises their rights or responsibilities under any provision of this policy, federal, or state law.

Retaliation occurs when an adverse action is taken against an individual for engaging in protected activity. Protected activity consists of:

- Opposing conduct reasonably believed to constitute discrimination, including harassment, that violates an employment discrimination statute; or
- Filing a complaint about such practice; or
- Seeking an accommodation under SMC's harassment policy/procedure; or
- Testifying, assisting, or participating in any manner in an investigation or other proceeding related to a discrimination complaint.

D. Preponderance of Evidence

Preponderance of the evidence is the evidentiary burden of proof used in SMC's harassment and discrimination procedures and investigation process. The facts must show that the responding party violated College policy by preponderance of the evidence (i.e., it is more likely than not that the responding party's actions violated University policy) before disciplinary sanctions will be applied.

E. Roles and Responsibilities

1. Director of Title IX & Equal Opportunity

The Director of Title IX & Equal Opportunity handles all complaints regarding non-sexual harassment and discrimination. To ensure a fair and neutral process for all parties the Director of Title IX & Equal Opportunity is responsible for:

- Monitoring the complaint resolution procedures for accurate compliance; and
- Handling the investigation and making a recommendation to the appropriate University official (if necessary); and
- Providing the reporting party and responding party a copy of the formal investigative findings (i.e., Investigative report) and resultant action(s) (i.e., designated College official resultant action(s) response); and
- Securely storing official non-sexual harassment and discrimination case files.

The Director of Title IX & Equal Opportunity (or designee) conducts a formal inquiry to discover relevant information related to the harassment allegations. The Director of Title IX & Equal Opportunity (or designee) will provide the appropriate designated officials (i.e., Provost, chairs, etc., with their findings and recommendation(s) for resulting action(s)). A Review Committee consisting of three designated College officials will be formed to review the Investigation Report, findings, and recommendations to determine resulting action(s).

2. Designated College Official

Designated College officials are responsible for:

- Examining and assessing the findings and recommendation(s) for resulting action(s) forwarded by the Director of Title IX & Equal Opportunity; and
- Determining the resulting action(s) in response to the report; and
- Providing the Director of Title IX & Equal Opportunity (or designee) with their determination of resulting actions.

Designated College officials responsible for determining whether a policy violation occurred will use the "preponderance of evidence" standard to determine whether a policy violation occurred. Under the preponderance of the evidence standard, the facts must show that the responding party violated

University policy by preponderance of the evidence (i.e., it is more likely than not that the responding party's actions violated College policy) before disciplinary sanctions will be applied.

F. Types of Complaints

There are three types of complaints addressed, including Anonymous, Third-party, and Formal complaints.

1. Anonymous Complaints

An anonymous complaint may be reported any time after an incident involving harassment or discrimination occurs; however, the College encourages incidents be reported within ten (10) days of the alleged incident(s). Anonymous complaints may be made online by submitting an anonymous report the College website.

Anonymous complaints are accepted by SMC to inform SMC administration that harassment may have occurred. SMC's ability to investigate and resolve anonymous complaints will be limited if the information contained in the anonymous complaint cannot be verified by independent facts.

2. Third-Party Complaints

A third-party complaint may be reported any time after an incident involving harassment or discrimination occurs; however, the College encourages incidents be reported within ten (10) days of the alleged incident(s). A third-party complaint may be filed by:

- Completing SMC's "Discrimination, Harassment, and Sexual Misconduct Form" on the SMC Title IX website; or
- A third-party, such as a trusted friend, can hand-deliver a complaint to the Title IX & Equal Opportunity office; or
- Mail a complaint to:
Spartanburg Methodist College
c/o Office of Title IX & Equal Opportunity
1750 Powell Mill Rd.
Spartanburg, SC 29301

Third-party complaints are accepted by SMC to inform SMC administration that harassment may have occurred. The College's ability to investigate and resolve third-party complaints will be limited if the information contained in the third-party complaint cannot be verified by independent facts.

3. Formal Complaints

Formal complaints must be made in writing and are the best method for informing SMC administration that non-sexual harassment or discrimination may have occurred. A formal written complaint may be filed:

- Using SMC's "Discrimination, Harassment, and Sexual Misconduct" form on the Title IX website and indicating that the reporting party are requesting a formal investigation.
- Hand-delivering a signed, written complaint to the Title IX & Equal Opportunity Office.
- Mail a signed, written complaint to:
 - Spartanburg Methodist College
c/o Office of Title IX & Equal Opportunity
1750 Powell Mill Rd.
Spartanburg, SC 29301

The formal complaint may be filed any time after an incident involving harassment or discrimination occurs; however, the College encourages incidents be reported within ten (10) days of the alleged incident(s).

- When filing a complaint, it is best if the reporting party writes, in their own words, an account of the alleged occurrences. This helps the reporting party clearly state events and gives the Director of Title IX & Equal Opportunity (or designee) the best understanding of what allegedly occurred. If the reporting party is not able to write an account, the reporting party may review and sign the written account as understood by the Director of Title IX & Equal Opportunity (or designee). The reporting party should review the account to ensure accuracy.
- The “Discrimination, Harassment, and Sexual Misconduct” form should be as complete as possible to ensure the most effective investigation and should include the reporting party’s signature when filing a complaint in paper form.
- A designee may be appointed by the Director of Title IX & Equal Opportunity. The Director of Title IX & Equal Opportunity (or designee) will exercise oversight of the investigative procedures according to the following guidelines:
 - Within a reasonably prompt time after the investigative process is complete, a written report of the investigative findings, resulting action(s), and recommendations (the report) will be forwarded from the Director of Title IX & Equal Opportunity to the Designated College Officials. The parties will have an opportunity to review the investigative report for accuracy.
 - Within a reasonably prompt time after receiving the report, the Designated College Officials will issue a determination response regarding resulting actions (i.e., disciplinary actions).
 - Both the report and resulting actions response will be submitted to the Director of Title IX & Equal Opportunity by the Designated College Officials. The Director of Title IX & Equal Opportunity will forward a copy of each to the reporting party and responding party. Copies may also be appropriately filed with other relevant offices (i.e., campus safety, HR, Provost, etc.).
 - If either party disputes the report findings or resulting action(s), an appeal can be made to the Director of Title IX & Equal Opportunity who will initiate the applicable appellate process.

II. Resolutions, Appeals & Grievances

A. Resolutions

SMC will make a good faith effort to proceed in a manner that is fair, impartial, and timely when investigating claims under the Non-Sexual Harassment and Discrimination Policy. Regarding investigation timeframes, factors that influence the timeframe of an investigation include:

- Complexity of the facts; and/or
- Number of witnesses and volume of information provided by the parties; and/or
- Any requests from law enforcement for a temporary delay to gather evidence for a criminal investigation; and/or
- To accommodate the availability of witnesses; and/or
- To account for College breaks or vacations; and/or
- For other legitimate reasons.

The Director of Title IX & Equal Opportunity (or designee) will periodically notify all parties in writing during the investigation process regarding updates and timeframes.

B. Appeals

Each party may appeal the report findings and/or resulting action(s). To appeal, a party must submit their written appeal within five (5) business days of being notified of the decision, indicating the grounds for appeal. The limited grounds for appeal available are as follows:

- Procedural irregularity that affected the outcome of the investigation (i.e., SMC failed to follow their own procedures).
- New evidence that was not reasonably available at the time the resulting action(s) was/were made.
- Investigating personnel had a conflict of interest or bias for or against an individual party, or for or against reporting party's or responding party's in general that affected the outcome of the matter.
- Contention that the resulting action(s) are unproportionate to the severity of the violation.

The submission of appeal stays any resulting action(s) for the pendency of an appeal. Appeals may be no longer than five (5) pages (including attachments). Appeals should be submitted in electronic format using ARIAL or TIMES NEW ROMAN, 12-point font, and single-spaced. Appeals should use footnotes, not endnotes. Appeals that do not meet these standards may be returned to the party for correction, but the time for appeal will not be extended unless there is evidence that technical malfunction caused the appeal document not to meet these standards.

Appeals will be decided by an appellate committee consisting of three Designated College Officials. The appeal outcome will be provided in writing simultaneously to both parties and include rationale for the decision.

C. False Complaints

Knowingly inhibiting an investigation of harassment or discrimination and/or submitting a false report of harassment or discrimination is prohibited. Anyone knowingly inhibiting an investigation of harassment and/or submitting a false report is subject to disciplinary action up to termination or expulsion.

D. Non-Sexual Harassment or Discrimination Complaints Made as Part of Another Grievance or Complaint Process

Complaints filed through other processes affiliated with SMC including the SMC Honor Code, SMC Faculty Handbook, or SMC Human Resources Policy Manual, or related due process procedures may have as a component to the complaint an allegation of non-sexual harassment or discrimination. The non-sexual harassment or discrimination allegations shall be handled within that existing process and not as a distinct or separate process. The Director of Title IX & Equal Opportunity will be available for consultation regarding the investigation of the harassment portion of the complaint. The findings of the complaint shall include any determinations of fact related to the discrimination and/or harassment allegations. Any appeal of the finds shall be according to the process appropriate to the status of the grievant.

Note: A complaint of discrimination or non-sexual harassment that is part of an ongoing complaint shall be forwarded to the Director of Title IX & Equal Opportunity as part of SMC's record of discrimination complaints.

Disciplinary actions and recommendations will be considered consistent with SMC policy and procedure and the investigative findings. For employees, disciplinary action can range from written warning up to an including termination. For students, disciplinary actions may be imposed as described in the SMC Honor Code.

III. Contact Information

Pursuant to Title IX of the Education Amendments of 1972, Spartanburg Methodist College does not discriminate on the basis of sex in its educational programs, activities, or employment opportunities as required by Title IX. Pursuant to the Americans with Disabilities Act and Section 504 of the Rehabilitation Act, SMC does not discriminate in admission, access, treatment, or employment on the basis of a disability.

Complaints and inquiries regarding Title IX may be referred to:

Kevin Rhodes, Director of Title IX
Spartanburg Methodist College
1750 Powell Mill Rd.
Student Center 231
Spartanburg, SC 29301
Telephone: 864-699-4642
Email: smctix@smcsc.edu

Complaints and inquiries regarding ADA, Section 504, or other forms of discrimination may be referred to:

Kevin Rhodes, Director of Equal Opportunity
Spartanburg Methodist College
1750 Powell Mill Rd.
Student Center 231
Spartanburg, SC 29301
Telephone: 864-699-4642
Email: smctix@smcsc.edu

Complaints or inquiries regarding harassment or discrimination may also be made to the U.S. Equal Opportunity Commission:

U.S. Equal Opportunity Commission
301 N. Main St.
Suite 1402
Greenville, SC 29601-9916
Telephone: 1-800-669-4000
Fax: 864-241-4416
TTY: 1-800-669-6820
Web: www.eeoc.gov.

Complaints or inquiries regarding harassment or discrimination may also be made to the Office for Civil Rights, U.S. Department of Education:

Office of Civil Rights
District of Columbia Office
U.S. Department of Education
400 Maryland Ave., S.W.
Washington, D.C., 20202-1475
Telephone: 202-453-6020
Fax: 202-453-6021
Email: OCR.DC@ed.gov

The Director of Title IX & Equal Opportunity is responsible for oversight any affirmative action and equal opportunity programs at SMC. The Director of Title IX & Equal Opportunity serves as SMC's ADA/504 coordinator for inquiries regarding discrimination due to a disability. The Director of Title IX & Equal Opportunity also receives and oversees SMC's response to other complaints alleging non-sexual harassment or discrimination that violate SMC policy or the following federal regulations:

- Title VI and Title VII of the Civil Rights Act of 1964 (race, national origin, and religious discrimination)
- Age Discrimination Act of 1975
- Age Discrimination in Employment Act of 1967
- Sections 503 and 504 of the Rehabilitation Act of 1973 (disability discrimination)
- Americans with Disabilities Act as amended (disability discrimination)
- Genetic Information Nondiscrimination Act of 2008 (GINA)
- Vietnam Era Veterans' Readjustment Assistance Act of 1974 (VEVRAA), as amended
- Uniformed Services Employment and Reemployment Rights Act (USERRA)
- Immigration Reform & Control Act of 1986