

Sauk Valley Community College
August 31, 2020

Action Item 5.1

Topic: Title IX/Sexual Misconduct Board Policies – Second Readings

Ethical Values: Sauk Valley Community College respects the worth and dignity of all people; stands for integrity and fairness; and encourages responsibility, accountability, and persistence in a caring, supportive environment.

Presented By: Dr. David Hellmich, Dr. Jon Mandrell, and Eric Epps

Presentation:

In response to new 2020 federal guidelines under Title IX, Sexual Misconduct and Sexual Discrimination, the College proposes revisions to its policies that align with the Title IX Education Amendments of 1972, which protect people from discrimination based on sex in education programs or activities that receive federal financial assistance. With these revisions, the College will be in compliance with the new mandates and guidelines.

Recommendation:

The administration recommends the Board approve revisions to the following Board Policies as presented for a second reading:

- *403.02 Non-Discrimination in Employment and Student Relations*
- *427.01 Sexual Harassment*
- *517.01 Safety and Security Reporting*
- *518.01 Sex Discrimination and Sexual Misconduct*

403.02 Non-Discrimination in Employment and Student Relations

Sauk Valley Community College is an equal opportunity employer and is committed to an effective policy of non-discrimination and equal opportunity in all employee and student relations. Except to the extent and subject to the exemptions permitted by law, no qualified employee or student shall be excluded from employment or educational opportunity, be denied benefits, or be subjected to discrimination on the basis of race, color, religion, national origin, ancestry, age, sex, sexual orientation (as that term is defined in the Illinois Human Rights Act), marital status, handicap, military status or unfavorable discharge from military service classified as Re-3 or the equivalent thereof.

Violations of this policy on the basis of sex is also governed by the Sexual Misconduct Procedures.

427.01 Sexual Harassment Policy

Applicable Statute: Title VII of the Civil Rights Act of 1964

The College shall provide its employees and students an educational and employment environment free from unwelcome sexual advances by employees of the College, free from requests for sexual favors by employees of the College and free from other verbal or physical conduct by employees constituting sexual harassment as herein defined and as is otherwise prohibited by state or federal law.

The College will develop, make publicly available, and review and update at least annually a set of Sexual Misconduct Procedures in compliance with Title VII and other applicable statutes.

Definitions

~~Sexual harassment" or "sexually harass" shall mean that term as defined by federal and state law, and, to the extent not inconsistent with federal or state law, shall mean:~~

~~Unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when one or more of the following is present:~~

~~Submission to or participation in such conduct is made, whether explicitly or implicitly, a term or condition of the individual's employment at the College;~~

~~Submission to or rejection of such advances is used as a basis for employment decisions affecting such individual's employment at the College;~~

~~Submission to or rejection of such advances is used as a basis for grades to be given a student for course work or for the extent or nature of work necessary to successfully complete course work;~~

~~Submission to or rejection of such advances is used as a basis for a student's selection or participation in any College extracurricular activity.~~

~~Where unwelcome sexual advances or requests for sexual favors or conduct of a sexual nature has the purpose or effect of substantially interfering with an individual's work performance or creates an intimidation, hostile, or offensive working environment.~~

~~"Aggrieved Party" shall mean any employee or student who believes he or she has been the victim of sexual harassment by an employee or at an employee's behest.~~

~~Sexual Harassment Officers (SHO)~~

~~The College shall designate two Sexual Harassment Officers (SHO). The Affirmative Action Officer shall be designated as one and the President shall appoint the other. There shall be equal gender representation. SHO shall have the responsibility to observe compliance with this policy, shall have such further responsibilities as are provided herein, and shall have such other related duties as may be assigned from time to time.~~

~~Sexual Harassment Committee (SHC)~~

~~The SHC shall include the members of the members of the Affirmative Action Committee, both Sexual Harassment Officers and the Director of Human Resources.~~

~~Function~~

~~The SHC shall monitor procedures and policies pertaining to sexual harassment.~~

~~The SHC shall monitor/provide an educational awareness program pertaining to sexual harassment.~~

~~Frequency of Meetings—the SHC shall meet at least once a year. Violations of Policy~~

~~It shall be a violation of this policy for any person employed by the College who is authorized to recommend or to take personnel actions affecting an employee, or who is otherwise authorized to~~

~~transact business or to perform acts or services on behalf of the College to do any of the following:~~

~~To sexually harass any student or employee of the College;~~

~~To make sexual advances or to request sexual favors when submission to or rejection of such conduct is, either explicitly or implicitly, the basis for recommending, imposing, granting, withholding, or refusing terms and conditions that either favor or adversely affect an employee's condition of employment or a student's status;~~

~~To recommend, impose, grant, withhold or refuse to take any personnel action consistent with his or her duties and responsibilities either because of sexual favors, or as a reprisal against an employee or student who has rejected or reported sexual advances or sexual harassment;~~

~~To fail to take immediate corrective action in the event sexual harassment has occurred; and/or~~

~~To create an intimidating, hostile, or offensive working environment by continuing to make unwelcome sexual remarks, unwelcome advances, unwelcome requests for sexual favors, or exposure of sexual organs, regardless of whether the person committing such conduct is in a position to adversely affect an employee's position of employment with the College.~~

~~Effect of Violation~~

~~Violation of this policy may result in the discipline of the employee or employees who have committed the act or acts of sexual harassment. Discipline may include discharge.~~

~~Responsibility of the College and of the Person Allegedly Affected by Sexual Harassment~~

~~An employee, student, or other individual who is an aggrieved person shall take the following steps:~~

~~An aggrieved person who feels comfortable in doing so should immediately inform the person engaging in sexual harassment that such conduct or communication is offensive unless stopped.~~

~~If an aggrieved individual does not wish to communicate directly with the person whose conduct is offensive, or if an aggrieved individual has had direct communication with the offending party but that communication has been unavailing, then such aggrieved party should contact a SHO. In~~

~~the absence of both SHO's, the aggrieved individual shall contact a member of the SHC. An aggrieved person alleging sexual harassment by the SHO or a failure of the SHO to take immediate action on the aggrieved person's complaint, shall contact the President of the College.~~

~~In the event that the aggrieved person alleges that the President of the College is the person committing acts of sexual harassment, the aggrieved party shall contact the Chairperson of the Board of Trustees.~~

~~It is important that any complaint about sexual harassment be made promptly. To enable the College to respond appropriately, the aggrieved person shall make her or his report as provided in Section 6A or 6B above as soon as is practicable for the aggrieved person, and in no event, later than 180 days of the event(s) which the aggrieved party alleges constituted sexual harassment.~~

~~The College Responsibility~~

~~Timely complaints of sexual harassment made to the SHO or a member of the SHC, or to the President of the College, or to the chairperson of the Board of Trustees shall be handled as follows:~~

~~Investigation—The person receiving the report shall cause an investigation to be initiated within 24 hours. The investigation shall be conducted diligently and shall include at least the following:~~

~~Interview of the person making the complaint to determine facts, circumstances, and identity of witness.~~

~~Interview of the person who allegedly committed the harassment and, as necessary and appropriate, interview of any witness to the events alleged.~~

~~Confidentiality—The matters learned in the investigation shall be kept confidential only to the extent consistent with needs to make disclosure to effect remediation or to protect the interests of the College.~~

Remedy

If in the judgment of the SHO, (or other person responsible for the investigation) it is more probably true than not true that the claimed sexual harassment occurred, the SHO or other responsible person shall, individually or with the SHC, as appropriate, promptly formulate and effect a proposed plan to remedy the harassment.

If the SHO or other person responsible for the investigation does not have the authority to effect the recommended resolution, the SHO shall make prompt report of the findings and of the recommended action to the President or, as appropriate, to the Chairperson of the Board of Trustees. The appropriate officer or the Board of Trustees shall consider the proposed remedy, and shall impose discipline in accordance with the disciplinary policies of the College and take such other steps as are reasonably necessary to correct problems created by the sexual harassment.

The SHO (or other person responsible for the investigation) shall promptly serve written notice on the claimant and on the respondent of the action taken as a result of the investigation.

~~Appeal~~ In the event either the person making the complaint or the person complained of wishes to appeal the decision reached pursuant to paragraph 6 D 3, such person may utilize the appeal provisions of the College's Affirmative Action Plan grievance procedures. For purposes of an appeal of a decision made pursuant to this policy, the decision of the SHO shall be equivalent to notice under the Affirmative Action Plan grievance procedure. On request by the person seeking to appeal, the SHO shall provide direction on means and necessary steps to make the appeal.

When a complaint of sexual harassment does or will likely result in discipline of an employee, the SHO shall furnish a written report to the President of the College within ten days of the date the complaint of sexual harassment is first made to the SHO or appointed alternate, or to the SHC. Such report shall contain, to minimum:

The date of the receipt of the complaint;

Identification of the complainant;

Identification of the party or parties and the action complained of including relevant background facts and circumstances;

A statement detailing the scope of the investigation that has been undertaken and the result thereof;

A statement of the corrective measures pursued including discipline imposed, the date such measures were undertaken and the results achieved; and

Where possible, a written statement signed by the complainant detailing the conduct about which complaint is made.

Quarterly a report will be communicated by the SHOs to the President concerning the status of any complaints made of a sexual harassment nature.

Implementation

All levels of administration are responsible to implement practices for persons under their supervision which shall avoid sexual harassment. All members of administration shall correct and notify one of the SHO of any sexual harassment which occurs under their supervision. In addition, all members of the administration shall report any sexual harassment which they observe in other areas of the College to either SHO or to a member of the SHC. In the absence of both SHO and all members of SHC, the report shall be made to the President.

Non-Retaliation

A. Initiation of a complaint of sexual harassment will not adversely affect the aggrieved person's employment, compensation, or work assignments, or position as a student.

The College will not retaliate against any employee for utilizing the charge provisions of the Illinois Department of Human Rights, Illinois Human Rights Commission or Equal Employment Opportunity Commission.

Consensual Relationships

~~A. Perceived sexual harassment frequently occurs in a situation where there is a superior/subordinate relationship between the parties to the relationship. Such relationships exist between administrator and faculty or staff, between faculty member and staff member, between staff and students, or between faculty and students.~~

~~B. In evaluating whether sexual harassment has occurred, the superior employee's perception of consent shall not be given greater weight than the student's or subordinate's assertion that the relationship was not one of mutual or voluntary consent simply because of the superior employee's position or status.~~

~~C. College employees who enter into a sexual or amorous relationship with a student or subordinate where a professional relationship exists shall recognize that, if a charge of sexual harassment is subsequently made, the student or subordinate will assert the relationship was not one of mutual or voluntary consent.~~

~~D. If an employee enters or seeks to enter into a sexual relationship with a student or subordinate when a professional relationship exists, and the student or subordinate brings any complaint or action against the College claiming sexual harassment, the College shall utilize all appropriate legal recourse against the employee to recover all costs, expenses, settlements, judgments, awards and attorneys fees incurred by the College in any way arising out of such claim or action.~~

~~Illinois Department of Human Rights~~

~~A charge of discrimination may be filed with the Illinois Department of Human Rights. The Illinois Department of Human Rights investigates complaints of discrimination. If charges are found to have merit, a complaint of discrimination may be issued, leading to a hearing before an administrative law judge of the Illinois Human Rights Commission. A charge of discrimination, to be timely under Illinois law, must be filed within 180 days of the event complained of.~~

~~The Department of Human Rights can be contacted at the following addresses and phone numbers:~~

~~Illinois Department of Human Rights Illinois Department of Human Rights 222 South College, Room 101 A 100 West Randolph Street, Suite 5 100 Springfield, IL 62704 State of Illinois Building (217) 785 5100 Chicago, IL 60601 (312) 814 6200~~

~~The Illinois Human Rights Commission can be contacted at the following addresses and phone numbers:~~

~~Illinois Human Rights Commission Illinois Human Rights Commission William G. Stratton Office Building 32 West Randolph Street, Suite 5 100 Room 404 A State of Illinois Building Springfield, IL 62706 Chicago, IL 60601 (217) 785 4350 (312) 814 6269~~

517.01 Safety and Security Reporting Notifications

Applicable Statute: 20 USC 1092(f) (Clery Act)

By October 1 of each year, the administration shall prepare an Annual Security Report (ASR) and distribute either the report or a notice of its availability to all current students and employees, and to any applicant for enrollment or employment who requests the report. The annual security report shall contain, at minimum, the policy statements and crime statistics required by the Clery Act.

The administration shall make timely warnings to students and employees whenever a crime poses is a serious or ongoing threat to the campus community. Emergency notifications will be issued when an immediate, significant danger to the health or safety of the campus community arises.

The College will maintain a written, easily understood crime log that records the date a crime was reported; the nature, date, time and general location of each crime; and the disposition of the complaint, if known. Disclosure of certain portions of this information may be restricted under the Freedom of Information Act.

~~1. Part 668 of Title 34 of the Code of Federal Regulations, "Student Assistance General Provision" obligates the College to provide certain information relating to campus security. The Dean of Institutional Research or his/her designee is assigned the principal responsibility to assure the College remains in compliance with federal law.~~

~~2. The College shall collect the information described below with respect to campus crime statistics for each calendar year, on the following crimes or offenses:~~

- ~~a. Criminal Homicide: murder, non-negligent or negligent manslaughter~~
- ~~b. Sex Offenses; forcible or non-forcible~~
- ~~c. Robbery~~
- ~~d. Aggravated Assault~~
- ~~e. Burglary~~
- ~~f. Motor Vehicle Theft~~
- ~~g. Arson~~
- ~~h. Liquor Law Violations~~
- ~~i. Drug Law Violations~~
- ~~j. Illegal Weapons Possession~~

~~The statistics will be reported for the three most recent calendar years, for the years in which the crimes were reported to a campus security authority. The College will report any crimes included in items A through G and any other reported crime involving bodily injury that manifest evidence that the victim was intentionally selected because of the victim's actual or perceived race, gender, religion, sexual orientation, ethnicity, or disability.~~

~~3. By October 1 of each year, the administration shall prepare, "an annual security report" and distribute either the report or a notice of its availability to all current students and employees, and to any applicant for enrollment or employment who requests the report. The annual security report shall contain the following information with respect to the College:~~

- ~~a. A statement of current College policies regarding procedures for students and others to report criminal actions or other emergencies occurring on campus and the policies concerning the College's response to such reports.~~
- ~~b. A statement of current policies concerning security of and access to campus facilities, and security considerations used in the maintenance of campus facilities.~~

- ~~e. A statement of current policies concerning campus law enforcement, including: (1) The enforcement authority of any security personnel at the College, with the working relationship between the College and state and local police agencies; (2) Any College policies which encourage accurate and prompt reporting of all crimes to appropriate police agencies and to any campus security personnel; and (3) any procedures that encourage professional counseling, if and when they deem it appropriate, to inform the persons they are counseling of any procedures to report crimes on a voluntary, confidential basis for inclusion in the annual disclosure of crime statistics.~~
 - ~~d. A description of the type and frequency of programs designed to inform students and employees about campus security practices and procedures and to encourage students and employees to be responsible for their own security and the security of others.~~
 - ~~e. A description of any program designed to inform students and employees about the prevention of crimes.~~
 - ~~f. The statistics regarding crimes or offenses described in Clause 2 above.~~
 - ~~g. The statement of policy concerning the monitoring and recording through local police agencies of criminal activity at off campus locations of student organizations which are recognized by the institution, and that are engaged in by students attending the College.~~
 - ~~h. A statement of College policy regarding the possession, use and sale of alcoholic beverages and enforcement of State underage drinking laws.~~
 - ~~i. A statement of the College policy regarding the possession, use and sale of illegal drugs and enforcement of Federal and State drug laws.~~
 - ~~j. A description of any drug or alcohol abuse education programs that exist as otherwise required by federal law.~~
 - ~~k. A copy of the College's policy regarding sexual assault programs aimed at the prevention of sexual offenses, and the procedures to be followed once a sex offense has occurred.~~
4. The administration shall make timely reports to students and employees regarding crimes described in Clause 2 above that are considered to be a threat to other students and employees. The reports will be given in a manner that will aid in the prevention of similar occurrences.
- ~~5. The statistics required in Clause 2 above shall be compiled in accordance with the definitions used in the uniform crime reporting system of the Department of Justice, and the Federal Bureau of Investigation and the modifications in such definitions as is done pursuant to the Federal Hate Crimes Statistics Act.~~
6. The College will maintain a written, easily understood daily crime log that records the date a crime was reported; the nature, date, time and general location of each crime; and the disposition of the complaint, if known. Disclosure of certain portions of this information may be restricted under the Freedom of Information Act.

518.01 Sex Discrimination and Sexual Misconduct

Sauk Valley Community College is committed to fostering a safe, productive learning environment and does not discriminate on the basis of sex in any of its' educational programs or activities. Title IX and College Policy prohibits discrimination on the basis of gender or sex.

Sexual misconduct including sex-based harassment, domestic and dating violence, sexual assault, exploitation, and stalking are prohibited acts. All forms of sexual misconduct or other identified acts of prohibited conduct under the College's policy is regarded as serious, and violations can result in discipline, including possibility of separation from the College.

In accordance with Title IX and Sexual Misconduct/Discrimination policy, Sauk Valley Community College will develop procedures that:

- Comply with the most recent State and Federal Regulations pertaining to Sexual Misconduct in Higher Education.
- Highlight the College's commitment to address sexual misconduct and define prohibited conduct.
- Describe the reporting, investigation, and grievance procedures for allegations of sexual misconduct.
- Define the roles of various individuals at Sauk Valley Community College involved in the investigation and adjudication of reported instances of sexual misconduct.
- Outline the resources available to all parties in reported sexual misconduct cases.
- Provide appropriate training to all employees, students and others involved in sexual misconduct cases.

General Policy

Sauk Valley Community College has adopted Title IX policy, in accordance with federal guidelines. Title IX of the Education Amendments of 1972 prohibits discrimination on the basis of sex or gender in the College's programs and activities. The College will respond to complaints or reports about prohibited conduct with measures designed to stop the behavior, eliminate any such gender discrimination, prevent the recurrence of the prohibited conduct, and remediate any adverse effects of such conduct on campus or in College-related programs or activities. The College does not tolerate sex or gender discrimination, including sexual misconduct such as sexual harassment and sexual assault, stalking, and intimate partner violence. These behaviors are harmful to the well being of our community members, the learning/working environment, and collegial relationships among our students, faculty, and staff. All forms of prohibited conduct under this policy are regarded as serious College offenses, and violations will result in discipline, including the possibility of separation from the College. State and federal laws also address conduct that may meet the College's definitions of prohibited conduct, and criminal prosecution may take place independently of any disciplinary action instituted by the College. The College has an obligation to make reasonable efforts to investigate and address complaints or reports of sex or gender discrimination, including sexual misconduct, whenever it becomes aware of such a complaint or report. Once made aware, the College must conduct an investigation regardless of how the information was brought to the College's attention or the extent to which the complainant (i.e., an individual who has been subjected to prohibited conduct, according to the complaint or report) wishes to participate or be involved. Once an employee has learned that such an offense has occurred, he or she shall report it, via the responsible reporter form, which is then routed to the designated Title IX coordinator. All individuals and victims have access to Confidential Resources that they may use for support and guidance without initiating College action.

The College will provide training for all employees to help ensure that they understand what types of conduct constitute sexual harassment or violence, can identify warning signals that may need attention, and know how to properly respond.

~~The Role of the Title IX Coordinator~~

~~The Title IX Coordinator will be informed of all complaints or reports of violations of this policy and oversees the College's centralized response to ensure compliance with Title IX and the 2013 Amendments to the Violence Against Women Act (VAWA). The Title IX Coordinator's activities include (but are not limited to):~~

~~Communicating with all members of the College community regarding Title IX and VAWA, and providing information about how individuals may access their rights;~~

~~Reviewing applicable College policies to ensure institutional compliance with Title IX and VAWA;~~

~~Monitoring the College's administration of its own applicable policies, including record keeping, timeframes, and other procedural requirements;~~

~~Conducting training regarding Title IX, VAWA, and prohibited conduct defined in this policy; and~~

~~Responding to any complaint or report regarding conduct that violates this policy. In this capacity, the Title IX Coordinator oversees the investigation and resolution of such alleged misconduct, directs the provision of any remedial measures, and monitors the administration of any related appeal.~~

~~Education and Awareness for Students on the prevention of Sexual Crimes~~

~~The administration shall, from time to time, but at least annually, obtain information from appropriate law enforcement and social service agencies regarding effective methods for the prevention of sexual offenses and shall plan and implement such methods as may be reasonably accomplished by the College. Such activities will be directed and intended to reach all of the student population.~~

~~Counseling for Victims of Sexual Assault~~

~~The administration, pursuant to Title IX, shall provide information and identified confidential resource personnel. Counseling, mental health, or student services are available for victims of sexual assault, both on campus and in the Sauk Valley Community College area.~~

~~Disciplinary Action~~

~~In the event of College disciplinary action for alleged sexual assault, a student alleged to be involved in a sexual assault shall be subject to campus discipline under and in accordance with student disciplinary policies. At any student disciplinary proceeding involving sexual assault,~~

~~The accuser and the accused are entitled to the same opportunities to have others present;~~

~~Both the accuser and the accused shall be informed of the outcome of any proceeding brought involving sexual assault; and~~

~~Per the student code of conduct, student discipline may include immediate expulsion from school, suspension, or reprimand, depending upon the conduct involved.~~