

## ANTI-HARASSMENT/DISCRIMINATION POLICY

**Policy Number:** 3.3.1

**Current Effective Date:** 08/14/2020

**Original Effective Date:** 06/22/1998

**Revision Dates:** 5/04/2010, 6/13/2011, 10/04/2012, 11/03/2014, 3/12/2019, 8/14/20

**Revision Number:** 6

**Revision Summary:** Reflects changes required under the new Title IX regulations

**Responsible Official:** General Counsel

**References:** [Administrative Procedure 3.3.1-P](#); [Administrative Procedure 3.3.1A-P](#); [Administrative Policy 6.6](#)

### 1. Purpose

KCTCS' policy is to maintain an educational and work environment free of illegal discrimination and harassment based on or relating to any Protected Classification, including gender, race, color, religion (or lack thereof), national origin, age, disability, marital status, sexual orientation, gender identity, genetic information, pregnancy, veteran or social status, social origin, indigenous status, or any other characteristic, trait, or identification protected by law.

This Policy provides for the internal reporting and investigation of allegations of illegal discrimination and harassment. It also prohibits retaliation against any individual who reports a perceived incident of discrimination or harassment, or a violation of law or policy, in good faith (or who participates in an investigation of any such report).

### 2. Scope

**2.1** This Policy applies to all KCTCS stakeholders, including its applicants, students, employees, volunteers, visitors, vendors, consultants, customers, colleges, offices, and workplaces, regardless of location and regardless of whether the conduct is engaged in by students or employees, or someone not directly connected to KCTCS. This Policy also applies to all KCTCS-related conduct, policies, decisions, and actions. This Policy may apply to behaviors that occur off-site, after normal KCTCS working hours, or at off-campus events if the behaviors are such that they become disruptive to the learning and/or working environment. All KCTCS stakeholders, particularly those with supervisory authority, are responsible for enforcing this Policy and its related Procedure. Compliance with this Policy and its related Procedure are conditions of employment or continued employment.

**2.2** This Policy does not apply to mere disagreements, disciplinary actions, performance evaluation appeals, adverse actions, and other routine issues **unless those issues are based on** a legally protected classification, or retaliation.

### 3. Policy

**3.1** It is KCTCS' policy that all of its stakeholders have the right to work, learn, and interact in an environment that promotes equal opportunity and treatment, and is free of discriminatory practices and harassment in all its forms, including sexual harassment. Harassment and discrimination based on any Protected Classification is prohibited.

**3.2** It is KCTCS' policy to not discriminate on the basis of sex in the education programs or activities it operates, as KCTCS is required by Title IX not to discriminate in such a manner. This policy relates to all KCTCS stakeholders, including employees.

**3.3** KCTCS encourages reporting of all perceived incidents of illegal discrimination or harassment. All allegations of harassment and discrimination will be promptly and thoroughly investigated in accordance with the [Anti-Harassment/Discrimination Procedure 3.3.1-P](#); the [Student Harassment or Discrimination Grievance Policy 6.6](#); the [KCTCS Code of Student Conduct](#); and/or the [Title IX Sexual Harassment and Misconduct Procedure 3.3.1A-P](#), as may be appropriate under the facts and circumstances. Any report of discrimination or harassment that does not meet the criteria specified under [Procedure 3.3.1A-P](#) will be processed through the other Procedures as appropriate. The KCTCS administration and management shall take prompt and appropriate action based on the results of the investigation. Any disciplinary action taken as a result of an investigation will be based on a preponderance of the evidence. KCTCS reserves the right to resolve incidents of illegal discrimination or harassment based on the facts at hand and the desires of the complainant.

**3.4** KCTCS prohibits retaliation against any individual who in good faith reports discrimination or harassment, or a violation of law or policy, or who participates in an investigation of any such report. Retaliation may also occur in certain circumstances outside the scope of this policy and not necessarily in connection with a complaint.

**3.5** KCTCS stakeholders shall immediately report good faith allegations of impermissible harassment and discrimination, which shall be timely investigated as set forth in Section 3.3. KCTCS administration shall take prompt and appropriate action based on the results of the investigation.

**3.6** KCTCS shall ensure that all employees and volunteers receive substantive training about proper behavior in the workplace, what constitutes illegal harassment/ discrimination, and the applicable policies, procedures and legal requirements. Training required by Title IX and the Clery Act is made available to students online and is included in the employee/volunteer training as described in this section.

### **3.7 Definitions**

- A. **PROTECTED CLASSIFICATION** is a characteristic, trait, or other identification on which basis applicable law forbids discrimination. Such categories include gender, race, color, religion or lack thereof, national origin, age, disability, marital status, sexual orientation, gender identity, genetic information, pregnancy, veteran or social status, social origin, and indigenous status.
- B. **DISCRIMINATION** is conduct directed at a specific individual (or group of identifiable individuals) that subjects the individual or group to treatment that adversely affects their employment or education because of a Protected Classification.
1. Examples: making negative employment decisions (such as time, type, or location of assignment, evaluation, promotion, demotion, etc.) based on a Protected Classification; making negative academic decisions (such as grades, etc.) based on a Protected Classification; and making insults, slurs, quips, or negative stereotyping related to a Protected Classification.
- C. **HARASSMENT**, as a form of discrimination, means verbal or physical conduct that degrades or shows hostility or dislike toward a specific individual (or group of identifiable individuals) because of a Protected Classification which (1) creates an intimidating, hostile, or offensive work or learning environment; (2) significantly interferes with one's work or academic performance; or (3) is so objectively offensive that it

alters the conditions of one's employment or education.

1. Examples: engaging in threatening, intimidating, or hostile acts related to a Protected Classification; written or graphic material (including objects, pictures, graffiti, videos, or content via other electronic means) that degrades or shows hostility or dislike based on a Protected Classification; and jokes, pranks, or other forms of humor that reference or relate to a Protected Classification.

D. **SEXUAL HARASSMENT** is a form of sex discrimination that includes unwelcomed or unwanted verbal or physical conduct of a sexual nature where (1) submission to, or rejection of, the conduct affects an aspect of one's employment or education (including but not limited to hiring, performance evaluations, promotions, grades, etc.), or (2) the conduct creates an intimidating, hostile, or offensive work or learning environment.

1. Examples: forced sexual acts; express or implied demands for sexual favors in exchange for anything; unwanted sexual advances to which an employee or student objects; staring at, touching, or assaulting someone's body; verbal comments about someone's body or sexuality; repeated sexual jokes, language, insults, gossip, comments, flirtations, advances, propositions, or questions; suggestive, insulting, or obscene comments or gestures; and graphic and sexually suggestive material (including objects, pictures, graffiti, videos, or content via other electronic means).

E. A **HOSTILE WORK OR LEARNING ENVIRONMENT** is created by unfair, oppressive, or abusive treatment in the workplace or educational environment based on a Protected Classification. A hostile work or learning environment exists when a reasonable and prudent person under the same or similar circumstances would consider the workplace or educational environment intimidating, hostile, or abusive. An intimidating, hostile, or abusive work or learning environment is not established by mere assertion or by subjective conclusion.

F. **RETALIATION** means taking an adverse or negative action, or harassing or imposing any type of punishment or consequence against or upon a person in a manner that substantially affects his/her employment or education based on the fact that he/she made a good faith report of a violation of law or policy, participated in good faith in an investigation of any complaint, matter, or issue, or in good faith sought relief from any perceived adverse condition of employment. Good faith reports **do not** include reports or complaints based on lies, falsifications, or intentionally misleading statements; those based on slander, libel, or defamation; or those made with malicious intent to harm. Reports or complaints based on such factors may subject the reporter to disciplinary action, up to, and including termination of employment. Retaliation may also occur in certain circumstances outside the scope of this Policy and not necessarily in connection with a complaint.

G. Workplace matters that do not meet the definitions set forth in this Policy and related Procedures may also be subject to investigation by appropriate individuals with the results submitted to appropriate KCTCS management for resolution.

## 4. Procedure

[Administrative Procedure 3.3.1-P](#) and [Administrative Procedure 3.3.1A-P](#) collectively implement this Policy and contain specific directives for stakeholders who wish to assert Title IX claims. Matters that do not meet the criteria specified in [Title IX Sexual Harassment and Misconduct Procedure 3.3.1A-P](#) will be processed under [Procedure 3.3.1-P](#). The College and/or System Title IX Coordinator will determine which procedure applies on a case-by-case basis. Other applicable policies and procedures that apply based on the types of claims are detailed in Procedure 3.3.1-P.

# ANTI-HARASSMENT/DISCRIMINATION PROCEDURE

**Procedure Number:** 3.3.1-P

**Current Effective Date:** 09/03/2021

**Original Effective Date:** 03/12/2019

**Revision Dates:** 8/14/20, 09/03/2021

**Revision Number:** 2

**Revision Summary:** Updates to current administrator titles

**Responsible Official:** General Counsel

**References:** [Administrative Policy 3.3.1](#); [Administrative Procedure 3.3.1A-P](#); [Code of Student Conduct](#); [Administrative Policy 6.6](#); [Administrative Procedure 6.6-P](#)

## 1. Purpose

This Procedure implements [KCTCS' Anti-Harassment/Discrimination Policy](#), [Administrative Policy 3.3.1](#). Definitions of Protected Classification, Discrimination, Harassment, Sexual Harassment, Hostile Work or Learning Environment, and Retaliation are listed within that Policy.

## 2. Scope

This Procedure applies to all KCTCS stakeholders, including its applicants, students, employees, volunteers, visitors, vendors, consultants, customers, colleges, offices, and workplaces, regardless of location and regardless of whether the conduct is engaged in by students or employees, or someone not directly connected to KCTCS. This Procedure may apply to behaviors that occur off-site, after normal KCTCS working hours, or at off-campus events if the behaviors are such that they become disruptive to the learning and/or working environment. This Procedure also applies to all KCTCS-related conduct, policies, decisions, and actions. If policy violations are perpetrated by third parties who are not KCTCS students or employees, KCTCS will take prompt, reasonable, corrective action to remedy the violation.

Sexual misconduct matters are also addressed in [Administrative Procedure 3.3.1A-P Title IX Sexual Harassment and Misconduct Procedure](#) in accordance with federal Title IX regulations. Any sexual misconduct matter not meeting the criteria specified in [Procedure 3.3.1A-P](#) will be processed under this Procedure. The College and/or System Title IX Coordinator will determine which procedure applies on a case-by-case basis.

Student allegations of harassment or discrimination are handled in accordance with [KCTCS Administrative Policy 6.6 Student Harassment or Discrimination Grievance Procedure](#) or the Title IX Sexual Harassment and Misconduct Procedure.

## 3. Procedure

Depending on what is most comfortable for the individual, good faith allegations of discrimination and harassment may be reported in many different ways:

**3.1 Discuss the Issue with the Offender:** Discussion with offender IS NOT mandatory. If an individual feels uncomfortable or is unable to discuss the issue with the offending person, he/she may use any other option available under this Procedure. However, attempting to resolve the issue directly with the offender may facilitate resolution of the issue in the most efficient manner. In doing so, individuals should keep in mind the following:

- A. KCTCS' policies, workplace rules, and core values always apply;
- B. Attempts to directly resolve issues should be done politely and reasonably promptly by notifying the alleged offender that his/her behavior is unwelcome or inappropriate;
- C. Individuals should cooperate to attempt to resolve their issues quickly, respectfully, fairly, and collegially; and
- D. If the issue is not satisfactorily resolved between the individuals or if the offended individual is for any reason uncomfortable resolving the issue directly with the offender, the individual may report the issue by any other means listed below.

### 3.2

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**Report to Institutional Officials:** An individual may also report a complaint of illegal discrimination, harassment, sexual harassment, or retaliation to any of the institutional officials below. If the individual is uncomfortable addressing the matter to any one of them, he/she may report the matter to any other of them:

- A. The Director of Organizational Integrity at the System Office;
- B. The KCTCS General Counsel;
- C. The College President or the KCTCS System President;
- D. The College Human Resources Director;
- E. The System Assistant Vice President/Chief Human Resources Officer;
- F. The College and/or System Title IX Coordinator if [Title IX Sexual Harassment and Misconduct Procedure 3.3.1A-P](#) applies in cases involving sex or gender. If the facts do not meet the criteria outlined in 3.3.1A-P, the report will be processed under this Procedure; or
- G. The College Chief Student Affairs Officer if [Administrative Policy 6.6](#) applies in cases of students who think they may have been discriminated against or subjected to harassment by students or employees based on any Protected Classification, including gender, race, color, religion (or lack thereof), national origin, age, disability, marital status, sexual orientation, gender identity, genetic information, pregnancy, veteran or social status, social origin, indigenous status, or any other characteristic, trait, or identification protected by law.

**3.3 The EthicsPoint Hotline:** In addition to the reporting channels above, an individual may also report the matter directly to the KCTCS EthicsPoint hotline via phone or email at 1-866-594-3115 or at <https://secure.ethicspoint.com/domain/media/en/gui/28458/index.html>.

**3.4** To resolve issues and correct problems in the quickest, most efficient manner, KCTCS highly encourages students and employees to report issues of harassment and discrimination to any of the options listed above, but they are NOT REQUIRED to do so. If an individual does not desire to use the internal reporting mechanisms listed above, they may instead make such reports directly to:

*Employee Reports:* Equal Employment Opportunity Commission (EEOC)

How to file: <https://www.eeoc.gov/employees/howtofile.cfm>

Kentucky Commission on Human Rights  
331 South Broadway, 7th Floor  
Louisville, KY 40202  
502-595-4024



## 4. Investigation and Resolution of Complaints

### 4.1.

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- A. Individuals who receive or become aware of allegations of impermissible harassment or discrimination perpetrated by any KCTCS employee, on KCTCS owned or controlled facilities, or in connection with KCTCS business SHALL immediately report such allegations to one of the Institutional Officials designated in section 3.2 above. No KCTCS employee has discretion not to report allegations of impermissible harassment and discrimination, including allegations of sexual harassment/discrimination, regardless of whether the alleged victim wants to report the matter.
- B. When the allegation includes sexual misconduct involving a KCTCS employee or a student, the College or System Office Title IX Coordinator must be made aware and process the report under the Title IX Sexual Harassment and Misconduct Procedure 3.3.1A-P, if appropriate.

### 4.2.

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Allegations of impermissible harassment and discrimination perpetrated by KCTCS employees, on KCTCS owned or controlled facilities, or in connection with KCTCS business will be investigated and managed jointly by the college Human Resources Department and the Office of Organizational Integrity, in appropriate consultation with the responsible manager, College President, and/or Cabinet member. KCTCS reserves the right to resolve any such matters in an informal manner, depending on the facts and the wishes of the complainant (the individual who is alleged to be the victim of the harassment or discrimination).

- A. Based on the preponderance of the evidence gathered by the investigation, the college Human Resources Director and the Director of Organizational Integrity shall recommend an appropriate response to the College President if the issue arose at a college, or to the System Cabinet member responsible for the System Office area where the issue arose. The findings and recommendations will also be reported to the KCTCS President.
- B. If the preponderance of the evidence substantiates impermissible discrimination or harassment the college Human Resources Director and the Director of Organizational Integrity will coordinate with the responsible manager to take appropriate employment action against the respondent (the individual accused of harassment or discrimination), up to and including termination, and document such action in the respondent's personnel file. KCTCS will take prompt, reasonable corrective action against third parties found to have engaged in discriminatory or harassing behavior on KCTCS property or in connection with KCTCS business.
- C. Within a reasonable time, the Director of Organizational Integrity or Human Resources Director shall ensure a response is provided to the complainant, indicating the status of matter. Disciplinary action against students or employees may or may not be disclosed depending on the circumstances.

### 4.3.

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Complaints by students or about student behavior that fall under the [Title IX Sexual Harassment or Misconduct Procedure](#), [Student Harassment or Discrimination Grievance procedure](#), or [Student Code of Conduct](#) are investigated in accordance with those policies and procedures. The KCTCS Office of Legal Services may

supervise and provide guidance and advice on the conduct of these procedures at any time. KCTCS reserves the right to resolve such matters informally based on the facts and the wishes of the complainant.

## 5. Retaliation

### 5.1.

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**RETALIATION IS PROHIBITED:** No student or employee may initiate or participate in retaliatory action against any student or employee who in good faith makes a report of impermissible harassment or discrimination, or a violation of law or policy, or who participates in an investigation of such issue under this or any related policy or procedure.

- A. Retaliation includes but is not limited to counseling, write-ups, demotions, reassignments, suspensions, terminations, changes in terms of employment/education and other disciplinary action, workplace harassment or bullying, or other adverse action that severely affects the conditions of employment or educational attainment and are initiated because the student or employee made a report or complaint, or participated in an investigation under this policy.
- B. Retaliation may also occur in certain circumstances outside the scope of this Policy and not necessarily in connection with a complaint. Any such retaliation is against KCTCS policy and should be reported.

### 5.2.

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The filing of any report or complaint, or participation in an investigation under this policy does not preclude disciplinary action not based on retaliatory or discriminatory reasons if it is otherwise appropriate. Proposed adverse action against any individual who has filed a report or complaint, or participated in an investigation under this policy must be reviewed and approved in advance by the appropriate institutional official in consultation with the Office of Legal Services.

## 6. Training

### 6.1

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KCTCS shall ensure that all employees and volunteers receive substantive training about proper behavior in the workplace, what constitutes illegal harassment/ discrimination, and the applicable policies, procedures and legal requirements.

### 6.2

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As a condition of employment or volunteer assignment, all employees and volunteers shall be required to complete assigned training within 30 days of initial employment or volunteer assignment. Training may be offered online or manually as appropriate.

### 6.3

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Annual anti-harassment/discrimination training shall also be a condition of continued employment/volunteer assignment.

### 6.4

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Designated individuals may also be assigned additional or supplemental training.

Additional training may be assigned as part of resolution to complaints or as necessary to correct inappropriate behaviors. Failure to complete such training may result in further corrective action.

6.6

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Training required by Title IX and the Clery Act is made available to students online and is included in the employee/volunteer training as described in this section.