

3.3.1 Harassment-Free Workplace

KCTCS is committed to providing a work environment that is respectful, professional, and free from unlawful harassment and other forms of illegal discrimination. Individuals, including students, employees, volunteers, customers, and visitors, shall not be forced to tolerate a hostile work environment or be subject to illegal offense(s) against a person or property motivated in whole or in part by an offender's bias against a sex, race, religion, disability, ethnic origin, sexual orientation, or any other characteristic protected by local, state, or federal employment discrimination law. All employees in all positions, as well as volunteers, are covered by and are expected to comply with this policy and to take appropriate measures to ensure that prohibited conduct does not occur.

3.3.1.1 Harassment

Unlawful harassment, including sexual harassment, is prohibited, illegal conduct in the workplace. The terms are defined as follows:

- **Unlawful Harassment** – A legal term which describes a form of illegal employment discrimination that is unwelcome conduct based on race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability, or genetic information in which:
 1. Enduring the offensive conduct becomes a condition of continued employment. OR
 2. The conduct is severe enough or frequent and pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.
- **Sexual Harassment** - A legal term which consists of a form of unlawful harassment that is unwelcome sexual advances, requests for sexual favors, and/or other verbal, non-verbal, or physical conduct of a sexual nature when:
 1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment.
 2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual.
 3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Discrimination in the form of unlawful harassment occurs as either “quid pro quo” or a “hostile work environment,” defined as follows:

- **Quid Pro Quo** - A legal term (derived from a Latin phrase meaning “this for that” or “something for something”) in which a victim, against his or her wishes,

is expected to provide sexual favors in order to receive favorable workplace treatment or face unfavorable workplace treatment if he or she refuses, which is unlawful.

- **Hostile Work Environment** – A legal term related to illegal discrimination defined as a work environment that is created as a result of persons being forced to suffer unlawful harassment based upon their race, sex, age (40 or over), national origin, color, religion, or disability that unreasonably interferes with an employee's work performance, which is unlawful.

Not all negative interaction constitutes unlawful harassment. Negative behavior that is directed toward an individual on the basis of his/her sex, race, age (40 or over), national origin, color, religion, or disability may be unlawful harassment. The term "harassment" as stated throughout this policy refers to unlawful harassment.

If incivility, bullying, and other negative interactions do not constitute unlawful harassment, they may still be prohibited in the workplace. However, such behavior is addressed in other KCTCS policies related to [proper conduct in the workplace](#), [core values and ethical conduct](#), and KCTCS Human Resources Procedures regarding violations resulting in disciplinary action.

The term "hostile environment" is also often used by individuals in a generic, non-legal sense to describe a generally unfriendly, unpleasant working condition not tied to a specific unlawful act. However, in order to meet the legal definition of "hostile work environment," the negative conditions in the working environment must be based on sex, race, age (40 or over), national origin, color, religion, or disability and must unreasonably interfere with work performance.

Therefore, in order to meet the legal definition of a hostile work environment, the behavior must be unlawful harassment based on sex, race, age (40 or over), national origin, color, religion, or disability; and it must unreasonably interfere with an employee's performance.

This policy addresses and refers to the legal term "hostile work environment."

Unlawful harassment can be verbal, non-verbal, or physical. Unlawful harassment can take many forms, including (but not limited to) innuendo, suggestive comments, threats, insults, jokes, horseplay, rumors, pictures, signs, writings, facsimiles, e-mail, text messages, internet postings, or other means of electronic communication or content, and gestures, based upon another person's gender, race, age (40 or over), national origin, color, religion, or disability. In addition, sexual harassment of a physical nature is unwelcome, unwanted physical contact, including (but not limited) to touching, tickling, pinching, kissing, fondling, forced sexual intercourse, or assault.

Sexual harassment does not refer to normal, courteous, mutually respectful, non-coercive interactions between individuals or occasional compliments of a socially-acceptable nature.

It is the responsibility of every employee to insure that unlawful workplace harassment does not occur. Because unlawful harassment is not limited only to interactions between a supervisor and subordinate, harassment can potentially occur by a supervisor in another area, a subordinate, a direct co-worker or other employee, a volunteer, an individual of the same gender, or by someone who is not an employee of KCTCS, such as a student, client, or customer.

3.3.1.2 Responsibility for a Harassment-Free Workplace

Through enforcement of this policy and by education of employees and volunteers, KCTCS shall seek to prevent, correct, and discipline behavior that violates this policy.

In order to ensure a harassment-free workplace, KCTCS mandates the following:

- All employees complete applicable components of the mandatory KCTCS Harassment-Free Workplace Training program when initially hired and annually thereafter, as well as volunteers completing the training program when they begin their service.
- All employees, students, volunteers, customers, vendors, visitors, and other individuals shall engage in proper behavior and interactions.
- All supervisors, managers, and administrators shall take appropriate steps to report alleged incidents of harassment.
- KCTCS officials shall take appropriate follow-up action for any alleged incidents of harassment.

All employees and volunteers, particularly supervisors, have a responsibility for keeping our work environment free of harassment. Any employee or volunteer who becomes aware of an incident of alleged harassment, whether by witnessing the incident or being told of it, shall report it to his/her immediate supervisor, human resources staff, or the designated management representative with whom they are comfortable.

When supervisors or managers become aware of alleged harassment, it is KCTCS policy that they immediately notify the college Human Resources Office, the KCTCS Human Resources Office, or KCTCS Office of Legal Services in order for the claim to be fully investigated. When the organization receives notification of alleged harassment, it is obligated by law to take prompt and appropriate action, whether or not the victim wants KCTCS to do so.

3.3.1.3 Harassment Prevention Education and Training

KCTCS shall insure that all employees and volunteers are fully informed about proper behavior in the workplace, what constitutes illegal harassment, and of the requirement that all employees interact in a way to insure there is no workplace harassment.

As a condition of employment, all employees shall complete the components of the online Harassment-Free Workplace Training program as follows:

1. When initially hired, all new employees are required to complete the following within the first 30 days of employment:
 - Harassment-Free Workplace educational course.
 - Review *KCTCS Policy 3.3.1 Harassment-Free Workplace*, and acknowledge their understanding of it with their signature.
2. On an annual basis, all employees are required to complete the following:
 - Review *KCTCS Policy 3.3.1 Harassment-Free Workplace* and acknowledge their understanding of it with their signature.

It is a condition of KCTCS employment for employees to complete the required KCTCS Harassment-Free Workplace Training program as stated above.

Also, upon beginning their volunteer assignment, volunteers shall complete the training program, including taking the educational course and assessment and reviewing the *KCTCS Policy 3.3.1 Harassment-Free Workplace* along with completing an acknowledgment of their understanding of it with their signature. Volunteers shall complete the training either manually or electronically (offline).

KCTCS shall also provide periodic supplemental training for designated individuals.

3.3.1.4 Reporting Harassment Allegations

If an individual's behavior offends an employee, KCTCS encourages the employee to communicate directly and immediately with the individual to inform the individual that his/her behavior is unacceptable, offensive, or inappropriate. However, direct communication between the employee and the individual who offends him/her is not required if the employee is uncomfortable doing so.

When certain actions are more severe, persistent, and if the employee perceives that it is harassment, the employee shall immediately report the incident. The employee shall report such an incident immediately even if he/she is not certain if the offending behavior is unlawful harassment.

Volunteers shall also report any incident they perceive to be harassment, even if he/she is not certain if the offending behavior is unlawful harassment.

Complaint Venues

An alleged victim shall report an allegation of workplace harassment using any of the established complaint venues for KCTCS employees and volunteers, which includes reporting it to their immediate supervisor, another management level employee, the college Human Resources Office, the KCTCS Human Resources Office, the KCTCS Office of Legal Services, a KCTCS administrator, the College Title IX Coordinator or through the official KCTCS [telephonic/online ethics complaint hotline](#).

The individual receiving the initial report of any incident of alleged harassment shall contact the college or KCTCS Human Resources Office, KCTCS Office of Legal Services, or a KCTCS administrator.

Investigation and Corrective Action

KCTCS shall appropriately investigate allegations of unlawful harassment and take any necessary disciplinary action. KCTCS shall conduct the investigation promptly, thoroughly, and impartially with due regard for the privacy of everyone involved. However, confidentiality cannot be guaranteed.

If KCTCS determines as a result of the investigation that an employee, student, volunteer, or any other individual unlawfully harassed an employee, volunteer, student, customer, or other individual, the harasser shall be subject to appropriate disciplinary action, up to and including termination of employment or voluntary assignment or other actions in accordance with the KCTCS Student Code of Conduct and student policies.

Employees or other individuals shall make allegations of harassment only in good faith. Any individual who intentionally makes a false report or exaggerates or misrepresents an allegation of harassment is subject to disciplinary action, up to and including termination.

KCTCS will also take any additional corrective action deemed necessary to appropriately remedy the situation before, during, and/or after the investigation is completed, including requiring additional related training if appropriate.

Retaliation

Retaliation of any sort is against the law; therefore, KCTCS will not tolerate retaliation related to a harassment complaint. Retaliation may include unlawful adverse employment action (such as a demotion, change in working hours/schedule or working conditions, etc.), offensive behavior on and off the job/KCTCS premises, and third-party retaliation (e.g., against victim's close associate or relative if also employed at KCTCS). No unlawful adverse employment action or other retaliation shall be taken against any individual who resists or rejects unlawful harassment, who makes a good faith report or allegation of harassment, or who participates in a harassment investigation or proceeding. An individual who believes he/she has been retaliated against shall report it using the

same procedures as allegations of harassment or discrimination. KCTCS shall investigate any allegations of retaliation and take appropriate action if retaliation did occur.

Liability

KCTCS accepts no liability for harassment or retaliation. The individual who in any way unlawfully harasses an employee or other individual is personally liable for such actions and the legal and financial consequences thereof.

3.3.1.5 Sexual Misconduct Policy

KCTCS requires all members of the KCTCS community to conduct themselves in a manner that does not infringe upon the rights of others and permits all individuals to work and study free from sexual harassment, misconduct, or violence. When a complainant brings an allegation of any type of sexual misconduct to the appropriate administrator's attention, KCTCS will take prompt action to ensure the safety and security of the complainant and of the campus. KCTCS will also thoroughly and impartially investigate the allegation and seek fair and equitable resolution for all parties. The Sexual Misconduct Procedure advances these principles and provides an administrative mechanism for the impartial investigation and the fair resolution of sexual misconduct complaints involving KCTCS students, employees, guests or visitors.

3.3.1.6 Consensual Relationships Policy

The definition of a "consensual relationship" is a mutually agreed upon romantic relationship and/or relationship involving physical intimacy.

In any workplace there are professional risks associated with consensual relationships in which a definite power differential exists between the parties. KCTCS is committed to fostering the development of learning and work environments characterized by professional and ethical conduct free of discriminatory behavior. Therefore, consensual relationships between an employee and a supervisory employee who is within his/her chain of command are prohibited while in a supervisory relationship, including direct or indirect supervision.

In addition, consensual relationships are prohibited between a student and the following:

- His/her instructor during the time in which the student is enrolled in the instructor's class,
- His/her advisor.
- Other college official who is in the position to exert power over the student's educational experience.

KCTCS considers consensual relationships in which there is a power differential to be a risk and potentially detrimental to the workplace for many reasons, including in part:

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1. Abuse of Power:

- a. The reasons for entering such a relationship may be a function of the power differential.
- b. Where power differentials exist, even in seemingly consensual relationships, consent shall not be considered a defense if a complaint of sexual harassment or retaliation is brought.
- c. The individual in the relationship with greater power will bear the burden of accountability.

2. Conflict of Interest: Conflicts of interest may arise due to consensual relationships between instructors, other KCTCS staff and students, or between supervisors and subordinates. The KCTCS [nepotism policy](#) prohibits individuals from making or influencing decisions affecting those with whom they have intimate, familial relationships. The same principles apply in regard to consensual relationships.

KCTCS recognizes that it cannot fully regulate all personal decisions. However, due to the potential for consensual relationships to have unintended negative consequences, employees should be aware that consensual relationships among employees may negatively affect the work environment, the ability to prove an alleged harassment complaint, or the ability to defend an alleged harassment complaint.

KCTCS will not accept liability for individual employee decisions or actions regarding consensual relationships.

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Recommended by	Date	President, KCTCS	Date